



20 January 2009

BUSINESSEUROPE voting recommendations for the Industrial Emissions Directive (COM (2007) 844)

In view of the EP ENVI Committee vote on 22 January 2009

BUSINESSEUROPE is very much concerned that a number of **compromise amendments** and key amendments would have strong economic impacts on industry without proportionate benefits to the environment. In particular, BUSINESSEUROPE is of the opinion that:

- The emissions levels associated with Best Available Techniques (BATAELs) must not become legally binding as Emission Limit Values (ELVs). The competent authorities should preserve sufficient flexibility to be able to deviate from BATAELs when this is justified.

Support: **compromise amendments 1 and 16** and amendments 49, 115, 186, 193, 195, 196, 201, 202, 204, 205, 206, 207.

Reject: **compromise amendments 2, 3, 15 and 17.**

- Groundwater and soil protection are very local and site-specific and must be managed by competent authorities in accordance with Community and national environmental liability laws.

Support: amendments 2, 9, 18, 29, 30, 167, 213, 214, 218 and 219.

Reject: **compromise amendments 4, 5, 7, 8, 9, 10, 11 and 12.**

- Costs and investment cycles must be considered when permit conditions for installations are re-evaluated and updated. In addition, updating of a permit should not be automatically connected to National Emission Ceilings (NEC).

Support: amendments 27, 28, and 236.

Reject: **compromise amendments 19, 20 and 21.**

- The public should be informed about IPPC permits on demand in line with Directive 2003/4 on public access to environmental information. In addition, inspection frequency should be determined based on risks of the industrial activity.

Support: amendments 13, 32, 254, 263, 266, 267, 272, 274, 284 and 285.

Reject: **compromise amendments 13, 14, 22, 23, 24, 25 and 26.**

- There should not be overlapping regulations between the IPPC Directive and the National Emissions Ceilings (NEC) Directive.

Reject: amendments 210, 211 and 229.

- The inclusion of such plants with a thermal capacity of less than 50 MW would cause unnecessary bureaucratic burden and costs.

Support: amendment 54 and reject **compromise amendment 35.**

More detailed views of BUSINESSEUROPE on the above issues are given in the following pages.



1) BATAELs and ELVs

While BUSINESSEUROPE believes it is important to foster implementation of the IPPC Directive, it should not be to a point of rendering emissions levels associated with Best Available Techniques (BATAELs) legally binding as Emission Limit Values (ELVs). The competent authorities should preserve sufficient flexibility to be able to deviate from BATAELs when this is justified, considering the specifics of the installation concerned, its geographical location, local environmental needs and cross-media effects. For existing installations in particular, severe restrictions on flexibility could lead to many cases where ELVs require very costly measures that are not proportionate to the environmental improvements they will engender. Deviations from BATAELs should not be an exceptional derogation but should be applied where justified.

We therefore ask MEPs to vote against **compromise amendments 2 and 3**. In the first one, the use of equivalent parameters or other technical measures to replace ELVs aiming to achieve an equivalent level of protection of the environment is not guaranteed. The second one calls for derogations in “exceptional cases” only and for criteria to be established for the granting of the derogation.

Instead, amendments 186, 193 and 195 / 196 should be supported.

In order to strengthen the role of BATAELs in the permitting procedure and to increase transparency, the competent authorities should justify, in an annex to the permit, when they deviate from BATAELs. Article 16 (3) describes explicitly the conditions under which deviations can be granted. There is no need for further detailed criteria. Therefore we support amendments 201 and 202 as well as amendments 204, 205, 206 and 207.

With a strengthened role of BATAELs, it is essential to:

- Guarantee the current process of developing and adopting them (so-called “Sevilla process”). We call on MEPs to support the merging of article 14 and 29 and therefore support **compromise amendment 16**. However, from a content point of view, we call on MEPs to reject **compromise amendments 15**.
- Clarify that BATAELs are different from ELVs. Accordingly, we call on MEPs to support **compromise amendment 1** also taking account of amendment 115.

Lastly, EU and sector-wide binding emission limit values set in the Annexes V, VI, VII and VIII are essential elements of the Directive, with far-reaching impacts on industry operations. Stakeholders must be properly involved in the decision-making process. An amendment of the Annexes through the co-decision procedure could be the best approach.

We therefore ask MEPs to vote against **compromise amendment 17** – although §2 on stakeholders consultation is supported - and instead to support amendment 49.

2) Soil and groundwater protection

Groundwater and soil protection are very local and site-specific and must be managed by competent authorities in accordance with Community and national environmental liability laws. BUSINESSEUROPE questions the rationale for introducing new provisions on soil and groundwater remediation without benefits for the environment and believes that very detailed descriptions of measures (baseline report) jeopardise the subsidiarity and proportionality principles.



Therefore, we ask MEPs to vote against **compromise amendments 4, 5, 7, 10, 11 and 12**. Instead, amendments 2, 9, 29 and 30 should be supported.

Similarly, in view of the importance and variability of all local conditions that must be taken into account, the monitoring of soil and groundwater, including its frequency, must be defined case by case by the competent authority in collaboration with the company concerned.

We call MEPs to vote against **compromise amendments 8 and 9** and to support amendments 18, 167, 213, 214, 218 and 219.

3) Update of permits

Costs and investment cycles must be considered in all decisions. Investments made to comply with BATs are often depreciated over periods of ten or twenty years depending on the sector. The operators of industrial installations need regulatory stability in line with their investment cycles.

Therefore, we call MEPs to vote against **compromise amendments 19 and 20**. Instead, amendments 27, 28, and 236 should be supported.

Updating of an industrial (IPPC) permit should not be automatically connected to National Emission Ceilings (NEC) without evaluating the contributions of all sectors covered under the NEC Directive (agriculture, transport, etc.) to the NEC goals.

We call on MEPs to vote against **compromise amendment 21**.

4) Information to the public, inspections and reporting obligations

There should not be a Community obligation to make inspection and compliance reports available to the public. The public should be informed about IPPC permits on demand in line with Directive 2003/4 on public access to environmental information.

- Inspection and compliance reports may contain confidential business information or information that is sensitive from a security viewpoint: Article 4.2b and 4.2d of Directive 2003/4 on public access to environmental information foresee the possibility to restrict public access to such information; mandatory publication of inspection and compliance reports on the Internet would thus be in contradiction with the provisions of Directive 2003/4.
- Equally, inspection and compliance reports may form the basis of a judicial procedure and their publication may hinder the course of justice, contrary to the requirements of Directive 2003/4 Article 4 2c.

Therefore, we call on MEPs to vote against **compromise amendments 13, 14 and 25** and to support amendments 13, 32, 254, 284 and 285.

Public participation in the permitting procedure is covered in the existing IPPC Directive sufficiently. There is no need to repeat specific aspects of the permit procedure such as deviation (“derogation”) from BATAEL. We ask MEPs to vote against **compromise amendments 24 and 26**.

On 20 November 2008, the European Parliament adopted a resolution which calls the Commission to come forward, before the end of 2009, with a proposal for a directive in environmental inspections, clarifying the definitions and criteria set out in



Recommendation 2001/331/EC and extending its scope. In order to be consistent with better regulation principles, no detailed binding inspection requirements should be laid down in the IPPC Directive. In addition, inspection frequency should be determined based on risks of the industrial activity, and reduced where possible and justifiable in order to avoid unnecessary administrative burden.

Therefore, we call MEPs to vote against **compromise amendments 22 and 23**. Instead, amendments 263, 266, 267, 272 and 274 should be supported.

5) IPPC relation to NEC Directive

Going beyond Best Available Techniques (BATs) per definition means that this is no longer a cost-effective available technique for industry. An evaluation of all contributors covered by the National Emissions Ceilings (NEC) Directive should be made when evaluating measures needed to achieve the national emissions ceilings, rather than pin-pointing industrial sources on an ad-hoc basis offering no stability for industry's environmental investment plans.

Therefore we ask MEPs to vote against amendments 210, 211 and 229.

6) Scope of the Directive

The IPPC Directive seeks to cover industrial activities which are of particular relevance to the environment. Considering that small combustion plants and operators (including hospitals and universities) account for a fairly limited percentage of environmental impacts, the inclusion of such plants with a thermal capacity of less than 50 MW would cause unnecessary bureaucratic burden and costs.

Therefore, we call on MEPs to support amendment 54 and to vote against **compromise amendment 35**.

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