



Brussels, 27 March 2017

**NINTH MEETING OF THE INDUSTRIAL EMISSIONS DIRECTIVE (IED)
ARTICLE 13 FORUM
BRUSSELS, 20 OCTOBER 2016
SUMMARY MINUTES (DRAFT)**

PARTICIPANTS

All Member States (MS) except Lithuania and Malta participated in the meeting. Norway attended as an observer.

Industry members (IM) at the meeting were: ACEA, BusinessEurope, CEFIC, CEPI, CEWEP, Cembureau, Cerame-Unie, ECCA, EPPSA, ESWET, ETN, EUCOPRO, Euracoal, Eurits, Euromot, EUTurbines, Eurelectric, Eurolliages, Eurofer, Euroheat&Power, Eurometaux, Euromines, FEAD, FETSA, FoodDrinkEurope, FuelsEurope, Glass Alliance Europe, IOGP, MARCOGAZ, MWE, HWE and UECBV.

Environmental NGOs (NGO) at the meeting were: EEB, CAN Europe and Coalition Clean Baltic.

ACCESSA and the Energy Community Secretariat attended as observers.

1. OPENING

The chair (Aneta Willems, Head of Unit ENV.C.4) welcomed the participants to the ninth meeting of the Forum.

2. ADOPTION OF THE AGENDA

A draft agenda was sent to members on 16 September 2016 and a revised version on 18 October 2016. On request of five IMs, two MS and one NGO, three AOB items, (Common Waste Gas Treatment in the Chemical Sector (WGC) BREF scope, monitoring issues, approach for deriving BAT-AELs) were added to the agenda to be discussed if there was time. The revised agenda was adopted.

3. ADOPTION OF THE MINUTES OF THE EIGHTH MEETING

Draft minutes of the 8th Forum meeting (19 October 2015) were sent on 20 November 2015. Comments were received from two IMs, one MS and one NGO. Revised minutes, were sent to Forum members on 16 September 2016.

One MS asked to add on p.3, 3rd paragraph '*Scope of the BAT conclusions*' and under the 3rd bullet point on the same page '*and the availability of a reliable Work Programme*'.

One NGO asked on p.2 for it to be identified that "one NGO" is Coalition Clean Baltic as they are not in the participant list and to add in the second last bullet on p.3 the following text: *'The reference to the 7th EAP objectives is welcome, but EEB asked COM to speed up and identify "particular environmental objectives of priority" through strengthened implementation work and considerations to extend the IED safety net in the same time.'*

One IM reiterated its previous comment regarding the second sentence in Section 6.4 asking for it to be amended to say *'In this respect, the agenda indicated that this topic will be addressed in another Forum meeting'*.

The Commission stated that the IM's proposal for amendment cannot be taken into account as the minutes reflect what was actually said and no commitment was given to address the issue in the next Forum meeting. The Commission agreed however that this topic could be addressed in a future Forum meeting. It also stated that the practice is not to mention stakeholder names in the minutes unless explicitly requested by the stakeholder. One MS supported holding a discussion in the Forum on the BAT-AEL derivation.

The revised minutes, as sent to the Forum on 16 September 2016, including two additional comments from a MS and one comment from an NGO, were adopted.

4. FORUM OPINION ON THE DRAFT BAT REFERENCE DOCUMENT FOR LARGE COMBUSTION PLANTS (LCP BREF)

The final draft LCP BREF was made available on 27 June 2016. The deadline for sending comments was 23 September 2016, but late comments were accepted from two MS, one IM and one NGO and in total 454 comments were received. An overview of all comments and their provisional categorisation was sent to members on 18 October 2016, together with a proposal to clarify 3 issues and discuss 5 issues. The additional 4 comments sent later by a MS were not included in the table, but they refer to comments already included.

The Commission made some general observations about the final draft and presented three items for *clarification*:

- 1. Exclusion of the plants that apply the IED Article 32-35 derogations from the scope of the BAT conclusions.*

The Commission explained this issue is partially addressed in FAQ where it says that for installations that benefit from IED derogations, Article 15(3) does not apply for certain air pollutants and these plants are not required, for those pollutants, to comply in addition with the conditions for derogations set out in Article 15(4). TNP and Article 34 plants are not concerned. Derogations are limited in scope and time and remaining issues can be dealt with under Article 15(4).

A range of divergent opinions were expressed by MS, IM and NGO Forum members. As a result, the Commission concluded that this issue remains non-consensual.

- 2. Exclusion of units <15MW_{th} from the scope of the BAT conclusions*

The Commission explained the text excluding units <15 MW_{th} from the BATc was removed after D1, as this was considered covered by the combustion plant definition. However, this only refers to calculation of the total rated thermal input of an aggregated

plant and doesn't exclude units $<15 \text{ MW}_{\text{th}}$ that are part of plants $\geq 50 \text{ MW}_{\text{th}}$ from the scope. As the data collection, consistently with the activities to be covered in the review, covered installations with total rated thermal input $\geq 50 \text{ MW}_{\text{th}}$, including plants of aggregated units of $\geq 15 \text{ MW}_{\text{th}}$, the Commission proposal is to keep this comment as consensual. This was supported by Forum members.

3. *Operating hours thresholds for CO levels concerning the scope and BAT 49 in particular*

For consistency with the conclusions on CO indicative levels and on plants operated $<1500 \text{ h/yr}$, and to avoid confusion, CO indicative levels should only be defined for new plants and for existing plants operated $\geq 1500 \text{ h/yr}$. The Commission proposed:

1: Consider as consensual deleting the reference to ' $\geq 500 \text{ h/yr}$ ' in the bullet points of the statement for CO indicative levels after Table 10.27;

2: Verify in all BAT statements that indicative CO levels are clear and only set for new plants and for existing plants operated $\geq 1500 \text{ h/yr}$.

Forum members raised a number of questions and points of clarification. The Commission explained that after heavy discussion at the Final Meeting of the LCP TWG indicative CO levels were set for existing plants $\geq 1500 \text{ h/yr}$ for all fuel types and this cannot now be changed. The Commission stated that indicative values are valuable information for a Competent Authority (CA) to refer to when CO is included in permit conditions.

A range of divergent opinions were expressed by MS, IM and NGO Forum members.

The Commission concluded that in the light of the discussion the comment remains consensual.

The Commission proposed five issues for **discussion** with a view to determining possible consensual comments of the Forum:

1. *Table 10.27- footnote 13 NO_x for new OCGT with $\text{EE}>39\%$ - extension to existing plants*

The Commission explained the purpose of the footnote. Since the reasoning is also valid for retrofitting of existing plants to achieve high energy efficiency, there is no reason to not apply the same criteria to them. Based on this, the proposal for a consensual comment is to apply footnote 13 to existing OCGT plants, and likewise apply footnote 12 for new plants with $\text{EE}>55\%$ to existing CCGT plants.

This was welcomed by one IM and one MS and commented by an NGO. The Commission concluded this comment was consensual.

2. *Plant/Unit size thresholds for BAT-AEELs*

One MS and four IM asked to keep ' $\geq 50 \text{ MW}_{\text{th}}$ ' for 'Gas turbine' Open Cycle Gas Turbine in Table 10.26 as presented in the pre-Final Draft (February 2016).

The BAT-AEELs were agreed during the written consultation on the leftovers of the Final Meeting (FM). The limitation ' $\geq 50 \text{ MW}_{\text{th}}$ ' was removed because the scope made it redundant. The Commission proposal for a consensual comment is to change the top-left heading of all BAT-AEEL tables to be consistent with the BAT-AEL tables and to remove references to plants $\geq 50 \text{ MW}_{\text{th}}$ in Table 10.26 to avoid redundancy.

A range of comments were expressed by Forum members. The Commission explained that energy efficiency values refer to units in plants with a certain thermal input compatible with the data collection. The data collection has no information on plants $<50 \text{ MW}_{\text{th}}$.

The Commission concluded there was no Forum consensus on this proposed comment but that there was a consensual view of the Forum to add $>50 \text{ MW}_{\text{th}}$ to Table 10.26 as requested by one MS and four IMs.

3. NO_x for pre1987 coal plants operated $<1500\text{h/yr}$ – footnote 7 of Table 10.3

Six MS suggested restoring application of footnote 7 in Table 10.3 only to coal-fired PC boilers $\geq 300 \text{ MW}_{\text{th}}$. One MS and one NGO asked to delete the footnote and one NGO put forward other proposals.

Based on the TWG agreements on secondary technique restrictions the Commission proposal for a consensual comment is to change 'plants' to 'coal-fired PC plants' in footnote 7 to Table 10.3.

A range of divergent opinions were expressed by MS, IM and NGO Forum members. After a discussion and clarifications, the Commission asked again if the Forum agrees to consider the text agreed in the TWG meeting, meaning the text from the pre-Final draft, as consensual.

It was concluded that the Forum agrees to restore the original footnote.

4. NO_x for new HFO and gas-oil-fired engines Table 10.20: BAT-AELs for NO_x from the combustion of HFO and/or gas oil in reciprocating engines

One MS asked to increase the higher end of the daily NO_x BAT-AEL range to 245 mg/Nm^3 and keep the yearly NO_x BAT-AEL at 225 mg/Nm^3 .

One MS and two IMs asked to increase the higher end of the daily NO_x BAT-AEL range to 300 mg/Nm^3 and the yearly NO_x BAT-AEL to 240 mg/Nm^3 , for new plants fitted with SCR and located in remote islands.

The Commission explained the yearly level was capped at 225 mg/Nm^3 at the FM for consistency with the Gothenburg Protocol (GP) technical annexes, subject to further consistency check with the GP. It appears that consistency does not require decreasing the upper end of the daily NO_x BAT-AEL range below 300 mg/Nm^3 , but would require decreasing the upper end of the yearly NO_x BAT-AEL to 190 mg/Nm^3 for gasoil-fired engines and for HFO-fired engines of $\geq 20 \text{ MW}_{\text{th}}$.

The intention was not to reopen a technical discussion. Plants achieving 190 mg/Nm^3 as yearly average should in principle be able to achieve levels better than 300 mg/Nm^3 as daily average. For diesel engines, not many units are $>50 \text{ MW}_{\text{th}}$ and all data are derived based on plants $>50 \text{ MW}_{\text{th}}$ with units generally $15\text{-}50 \text{ MW}_{\text{th}}$.

A range of divergent opinions were expressed by MS, IM and NGOs. The Commission explained the $20 \text{ MW}_{\text{th}}$ threshold applies to individual engines in a plant. The aggregation rule can be applied to set an ELV at the level of the plant permit. This is in line with the final TWG meeting conclusion. The Commission asked if adding a footnote aligning with the GP transitional period for SIS of 10 years is consensual.

Differing issues relating to international agreements and BATc were discussed. The Commission concluded the comment is registered as non-consensual.

One MS referred back to Table 10.3, footnote 7 on NO_x and said it could agree to exclude lignite if the footnote applies to all plant sizes. The Commission recalled this point had been concluded by the Forum but the statement would be recorded.

5. *How to deal with measurement uncertainty in the context of the BAT-AEL ranges agreed at the final meeting for the LCP BREF (information point).*

The Commission informed that a number of comments had been received on this issue from IMs. In summary, these comments include the following requests:

- To ask CEN about the feasibility to measure emissions within the BAT-AEL ranges;
- To advise a feasibility assessment before setting ELVs based on the BATc;
- To reference a 2016 report conducted by INERIS on behalf of three IMs as source of information for the feasibility of ELVs;
- To assess the stricter end of BAT-AEL ranges in view of EN standards;
- To increase the stricter ends of certain BAT-AEL ranges.

The Commission recalled the BAT-AELs agreed at the final TWG meeting are based on reported emission levels and data from plants without subtraction of measurement uncertainty. The feasibility of measuring some values was put on the table and discussed at a late stage in the TWG. Some IMs submitted a split view as they did not agree with the conclusion. None of the data submitted was questioned during the exchange of information. There may be issues related to the implementation of BAT-AEL, which are on the agenda to be discussed in an industry workshop where the INERIS report is scheduled to be presented. To date, no BATc has included conclusions related to the measurement uncertainty as this is taken into consideration by MS when assessing compliance.

The Commission asked Forum members to share their experiences. A number of MS, IMs and NGOs discussed different issues. They mainly recognised the issues raised in the INERIS report without seeing specific problems and raised some concerns with the study.

The Commission concluded that MS see this as an implementation matter and IMs had expressed their concerns. The rest of the discussion was a repetition of the TWG discussion. The matter is how monitoring may demonstrate that levels below a certain value are achieved. The subject includes many complex issues and the workshop organised by some IMs based on the INERIS study provides an opportunity for discussion. In addition, a number of further interventions were made related to AMS, QAL2 and possible warnings in the BATc.

The Commission thanked contributors and concluded there is no consensus on the issue. Points raised have been noted. Discussion and work continues on different implementation issues e.g. workshops with MS.

The Commission invited Forum members to raise any other issues it had not initially proposed on which a consensus might be reached.

One point that has been raised and on which the Forum agreed to change the status to consensual:

- BAT 25, table 10.10, footnote 5, to add a definition of high-moisture fuel. Comment #455

The following points have been raised but in the absence of consensus within the Forum remain classified as non-consensual.

- BAT 26, table 10.11, BAT-AEL for NO_x for solid biomass and peat fired plants, Comment #242
- BAT 28 the applicability restrictions of techniques SDA and DSI, Comment #246
- BAT 28 table 10.12, BAT-AEL for SO₂ for biomass and peat fired plants, Comment #251
- BAT 28 table 10.12bis, BAT-AEL for HCl for biomass and peat fired plants, Comment #255
- BAT 19, Table 10.3, footnote 9 NO_x emissions for FBC boilers put into operation no later than 7 January 2014 and lignite-fired PC boilers, proposing 190 mg/Nm³ as a compromise in the latter case, Comment #159
- BAT 21, Table 10.5 regarding abatement efficiency formula for plants > 300 MW, firing indigenous lignite fuels and which can demonstrate the BAT-AELs for SO₂ mentioned in Table 10.5 cannot be achieved for techno-economic reasons, Comment #184
- BAT 21, Table 10.6, convert BAT-AELs on HCl and HF from binding to indicative, Comment #201
- Add footnotes for existing plants in Table 10.11 to increase the cost-benefit for existing biomass and peat plants, Comment #237;
- Modify the applicability of techniques SDA and DSI for existing ESP equipped plants, Comment #247;
- Harmonise the SO₂ BAT-AELs in Table 10.12 for existing biomass and peat plants with average sulphur content 0.1 % or higher with the SO₂ BAT-AELs for coal plants to increase the benefit-to-cost ratio for existing biomass and peat plants, Comment #249;
- Add to footnote 1.bis of Table 10.12-bis that the higher end of the yearly average BAT-AEL range is 50 mg/Nm³ for existing plants with ESP, Comment #257;
- Increase the lenient end of the dust BAT-AELs in view of the rationale and detailed CEPI split view information, Comment #263.
- BAT 39, Table 10.22, on dust for new engines burning HFO and/or gasoil, Comment #298.
- BAT 39, Table 10.22, Footnote 22 on DLN 70% footnote, comment #328
- BAT 39, Table 10.22, aggregation rule for existing diesel engines, Comment #293
- BAT 39, Table 10.22, aggregation rule for existing diesel engines, Comment #268. This refers to not applying this rule for plants prior to 2010.
- Comment #3: refer to a May 2015 Greenpeace health impact study,;
- Comment #6; add information on NO_x emissions of the first SCR-fitted lignite plant put into operation in 2015 in Section 5.1;
- Comment #51; add that all different BAT-AEL averaging periods apply.

One IM proposed to consider comments #156, #174, #187 but not to vote on them as it is clearly impossible to get unanimous support. It asked what difference it makes to the process if a comment is reported as consensual. One MS recalled the Commission has the right to amend the document and then MS will vote. To prepare the vote they may look at stakeholders' written and oral comments and consider them when preparing their position for the Committee vote.

One IM supports the BREF review technical procedures but was dissatisfied with the outcome and felt the BREF failed to adequately take account of the specific circumstances of the industry represented. This IM also stressed the need to avoid conflict between vertical and horizontal BREFs. The IM further expressed disappointment on the fact that, despite the EIPPCB's conclusions in the split view assessment that several of their split views on BAT 52, 53, 54, 56 and 58, fulfil the conditions set out in section 4.6.2.3.2. of Commission Implementing Decision 2012/119/EU, the IM's position got no written support from any MS. The IM asked for comments #38, #346, #347, #348, #349, #350, #351, #359, #360, #366, and #367 to be put for discussion. It also argued for a methodology for BAT-AEL derivation and supported VITO's methodology. The Commission asked the IM if it wanted to seek consensus on the mentioned comments. Since this IM did not, the comments are recorded as raised in the meeting without asking for individual Forum opinions as it is expected consensus will not be reached.

The Commission confirmed that use of all averaging periods set in BAT conclusions is an obligation, without prejudice to IED Article 15(3).

The Commission noted a letter had been circulated to the Forum signed by ministers of five MS (PL, CZ, UK, FI and EL) addressing the timing and the need for an Impact Assessment.

The Commission concluded it was now in a position to establish the Forum opinion. Comments will be registered as either 'consensual within the Forum' or as 'representing the views of certain Forum members'. The categorisation does not prejudice the outcome of its assessment, which will be reflected in the draft Implementing Decision on the LCP BATc. The Commission thanked members for their participation and for sharing their views.

5. WORK PROGRAMME UPDATE

The Forum received the proposed 2017 work programme (WP) and future outlook by e-mail on 18 October 2016.

The BREF schedule and the order of Slaughterhouses and Animals By-products (SA) and Smitheries and Foundries (SF) was discussed. Five MS and one IM believe the scope of the new WGC BREF requires clarification in the next Forum meeting and one MS suggests an intermediate Forum meeting to cover discussions on BAT AELs derivation methods, three MS expressed concerns about other chemical BREFs and which will trigger permit reconsiderations. An IM asked for an update on the Industrial Cooling Systems (ICS) and Energy Efficiency (ENE) BREFs. An NGO expressed concern on the Surface Treatment with Solvents BREF schedule and suggested to give more priority to Organic Fine Chemicals BREF, in view of the 2020 deadline.

The Commission agreed clarity is essential in the order of BREFs to be reviewed. The perceived changes in the WP only affect BREF reviews that were listed for the same year. The Textiles BREF review is on schedule for 2017 and there is a possibility for either SA or SF to also start in 2017. The Commission said it will ask Forum members' opinion on starting the SF or SA BREF review first. The Common Waste Gas Treatment (WGC) TWG has been activated and the call for initial positions planned for end-2016 will include questions on the scope. The aim is to maximise coverage of WGC to reduce further work on chemical BREFs. It is currently difficult to say how many chemical BREFs will remain. Updating ICS, ENE and Economics and Cross-media Effects BREFs is not a priority and it is unlikely that their revision will start by 2020.

6. INFORMATION POINT ON KEY ENVIRONMENTAL ISSUES (KEIs)

The Commission provided a short update on developments. KEI identification is part of the established "Sevilla process" and many Forum members have given input. In line with the information exchange principles, determination of KEIs for a BREF needs to be fact-based, relying on sound data.

The objective of this work is to explore identifying KEIs in advance of the information exchange. The approach developed will be applied to sectors for which BREF reviews will soon start to test its adequacy, flexibility and effectiveness, identify weaknesses and make recommendations for improvement. The contract will be signed soon and the ToR put on CIRCABC.

One IM requested to be informed on ongoing activities. One MS thought starting only with available data risked missing real key environmental issues. One NGO was similarly concerned, asked to see the ToR and why the EEA could not be the contractor.

7. ANY OTHER BUSINESS

One IM asked about next steps for the LCP BATc, and one NGO expressed concern about the timing and wants to speed up adoption.

The Commission stated the Forum opinion will be recorded and made public with annexes listing consensual and non-consensual comments. Then, the adoption process for the Commission Implementing Decision will start, leading to the MS vote in the IED Article 75 committee. Adoption of the BATc by the college follows a positive vote and they are then translated. The BATc enter into force after publication in the Official Journal.

8. CLOSURE

The next IEEG meeting will be held jointly with E-PRTR experts on 14 November 2016 and discuss electronic reporting. Documents will be sent by 31 October. It will update MS on work and challenges and the next steps. The next IED Committee meeting is tentatively foreseen for Q1 2017 for LCP vote and the next Forum meeting is tentatively scheduled for the end of Q1 2017 for LVOC.

(Meeting ended at 19:10)