



## Review of the IPPC Directive – Possible use of market-based instruments and other incentives

**Industry is strongly opposed to Emission Trading (ET) for pollutants like NO<sub>x</sub> and SO<sub>2</sub> as it could impose an economically unaffordable double burden (BAT based operating conditions and additional measures). Industry supports the IPPC Directive as an integrated approach that already takes environmental objectives, local conditions and economic aspects into account in a balanced manner and, through the regular up-dates of the BREF notes, drives the continued improvement in environmental performance.**

### General comments from industry:

#### a) The dynamic feature of the IPPC Directive:

Energy intensive industries support the IPPC Directive as THE integrated approach that takes environmental objectives, local conditions and economic aspects into account in a balanced manner. Through the regular up-dates of the BREF notes and permit adaptation e.g. when increasing capacities or when significant changes are observed in a given installation, the implementation of the IPPC Directive drives continued improvement in environmental performance.

In some Member States, IPPC permits are regularly reviewed and with each revision there are further obligations to improve environmental performances. Industry cannot therefore accept the European Commission's statement which implies that operators are not deeply involved in a dynamic process of continual improvement.

If the Commission wishes to promote a level playing field between installations from different Member States, it has to consider harmonising the different approaches taken by relevant competent authorities, rather than the development of either international or national market-based instruments aimed at going beyond regulatory requirements imposed under the IPPC Directive.

It has also to be recognised that:

- as far as existing installations are concerned, it is much too early to see a complete improvement as a result of the implementation of BAT across the EU 25 when the deadline for full implementation is still two years ahead; and
- room for further improvement in reducing emissions does exist within the current context if the BREF associated ranges, observed emission levels and ongoing investments are considered.

b) The air quality strategy (CAFE) and the National Emissions Ceilings directive (NECD):

The broad approach to revising the NECD will among other things investigate “novel means of implementation” (e.g. emissions trading).

The NECPI (NEC – Policy Instruments Group) will undertake a sensitivity/uncertainty analysis which could weigh on the one hand a scenario where geographical location of emissions reductions are relaxed (emission trading) and the effects of such approach on changed level of environmental protection on the other hand.

Energy intensive Industries are sceptical that ET for NO<sub>x</sub> and SO<sub>2</sub> could be implemented in a manner that would allow lower ambition levels than those derived from the application of BAT (i.e. relaxation of emissions reductions for local pollution is unlikely to be accepted by stakeholders). On the contrary, the statements linked to the implementation of the IPPC Directive and to its revision (COM (2003) 354 final and COM (2005) 540 final) clearly indicate that the full application of the IPPC Directive would be the pre-requisite and that trading would come in addition to it. If that is the case the cap (total amount of allowances) would probably be established on the BAT-Associated Emission Levels associated “baseline”.

Contrary to any integrated approach CAFE focuses only on air pollution and does not consider cross media effects or the economic and social dimensions of sustainability. In particular, economic benefits derived from industrial activity have been not sufficiently taken into account. This appeared clearly when the CAFE programme, which is only based on air pollution health effects, emphasised the emotive message of lost life expectancy. In contrast, Eurostat statistics constantly highlight major improvements in life expectancy in recent decades.

The Maximum Technical Feasible Reduction (MTFR) scenario assumes that the presently available most advanced technical air emission control measure will have been fully implemented by the year 2020 and has been used to derive policy options in the air quality area.

For the sectors covered by the IPPC Directive, the MTFR approach completely opposes the IPPC and its BAT-based philosophy. Furthermore, the IPPC process is an integrated approach which considers cross media effects and which is based on the BAT concept and regular update of the BREF notes (art 16.2 of the IPPC Directive). MTFR on the contrary is only focused on emissions to air.

Energy intensive industries feel that MTRF jeopardises the IPPC concept itself and contradict the balanced intentions which were the foundation of the IPPC Directive. Energy intensive industries will therefore not support an introduction of further air pollution trading schemes as this would automatically introduce a cap on the production and limit the growth in industrial sectors that operate in a global market where costs cannot be passed on to their customers.

c) Incentive for front runners:

It is not clear how the EU Commission really intend to reward front runners.

Two possibilities could be envisaged:

If it is intended to be achieved by incentives (like subsidies), energy intensive industries could support this approach when applied to techniques that go beyond BAT. Where techniques entail excessive costs or a specific technique is aimed at reducing one pollutant and where trade offs are not taken into account, financial support from public funding would be necessary.

If it is intended to be achieved through emission trading, energy intensive industries do not believe it would be appropriate as the recent EU ETS for greenhouse gas emissions shows. As each incumbent to the scheme cannot be granted an allocation greater than that strictly needed, it is virtually impossible to be rewarded for early action.

Moreover in the unlikely case of a NO<sub>x</sub> and SO<sub>2</sub> trading scheme operating with a Cap & Trade system rather than with a Baseline & Credits this might even prevent an efficient installation to grow in the case where its operator would be in a position to win new market shares!

d) Are market-based instruments an alternative to the full implementation of the IPPC Directive?

Promotion of market-based instruments should only be considered if it can be clearly demonstrated that these alternative instruments can deliver the required environmental objective at less cost and without damage to the competitiveness of European industry. The recent experience that can be drawn from the EU ETS for CO<sub>2</sub> is not encouraging.

In various Member States the EU industry participates in Voluntary Agreements and is thus contributing significantly to the achievement of environmental goals. In developing the EU ETS inadequate recognition was given to the fact that there were already policies and measures in place in some Member States. Industry faces double regulation and has to bear twice the burden to its cost base, namely the cost of existing local instruments (such as taxation on energy products or fulfilment of covenants) and the cost of purchasing allowances.

e) Are market-based instruments (MBI) the best solution to tackle air emissions as a response to difficulties in implementing the NEC Directive?

Such market-based instruments either at national or EU level will most likely only include industrial sectors (as for CO<sub>2</sub>) to the detriment of those sectors that cannot directly pass on additional costs to their customers. This would again lead to a loss of competitiveness whereas other economic sectors like transport, households and other non European markets would not be affected.

Sectoral emission ceilings could lead to a limitation of production (a ex-ante cap on emissions meaning a cap on the production itself) where all accessible means to reduce emissions have already been exploited. In addition, operators cannot be faced with a market-based instrument approach on the one hand and with an emerging technique situation to address potential questionable reductions on the other hand. Any market-based instrument, such as Emissions Trading, will have the same direct and indirect consequences as the EU ETS for CO<sub>2</sub>:

- the economic burden will have to be borne by industry whereas other very important emitters will be out of the scope (e.g. households, traffic, agriculture);
- higher energy prices can be expected as a consequence of the so-called opportunity cost effect (leading to an unfair distributional effect, a transfer of wealth and no reduction of emissions from the energy sector which can pass on 100% of their costs)<sup>1</sup>.

**CONCLUSION:**

**The full implementation and application of the IPPC Directive is an ongoing process which will deliver its complete achievements in the coming years.**

**If the European Commission wants to ensure the continuous improvement of environmental performance and create the conditions of a level playing field between European installations, the dynamic and harmonised application of the IPPC Directive is clearly the best tool to achieve this goal rather than the development of market-based instruments.**

**No cost-benefit analysis can show that such market-based instruments like emission trading would deliver positive results. Any scheme would create a new distortion of competition with competitors outside EU and a loss of competitiveness for the energy intensive industries due to additional energy costs.**

**Industry supports regulatory stability aiming at giving medium and long-term certainty in terms of predictability of the legal framework as well as in terms of time to investments.**

**Only under those conditions can an EU competitive industry develop and prosper while ensuring a sustainable development.**

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<sup>1</sup>From the High Level Group on Competitiveness, Energy and Environment report (2 June 2006) : *“Insufficient maturity of energy markets is alleged to have led to insufficient competitive pressure to reduce the pass-through in electricity prices and to so-called windfall profits for electricity producers. “*