

EUROPIA Position

Refinery BREF

September 2012

Implementation of EU environmental legislation in line with wider goals

EUROPIA recognises the importance of safeguarding the environment and the refining industry has over the years made great strides to improve its environmental performance, for example by reducing sulphur in fuels and making energy savings where possible. The Industrial Emissions Directive¹ will contribute to continuing improvements through its integrated approach toward emissions to air, water and soil.

It is of paramount importance that for the directive to be of real value, **its implementation is carried out in a proportionate manner that does not unnecessarily impair the competitiveness of the EU refining sector**. This concern for competitiveness was recently underlined by European Heads of State in their '**Compact for Growth and Jobs**' Council Conclusions which also stressed that "*further efforts are needed to reduce the overall regulatory burden at EU and national level*"².

Impactful legislation...

The Industrial Emissions Directive will be implemented through several sectoral Best Available Techniques (BAT) Reference Documents (BREFs) which form the basis of the comitology-implemented "BAT Conclusions". **Since these documents set essentially legally-binding BAT-associated emission limit values to be adhered to in the issuing of permits for sites across the EU, it is imperative that these values are realistic and encourage cost-effective improvements.** Otherwise there is a risk that the EU refining sector will be at a disadvantage with global competitors at a time when there is a need for Europe to strengthen its industry.

...at a challenging time for a key EU industry

The EU refining sector is facing several challenges simultaneously. The industry needs large-scale investments and restructuring to address changing product demand and meet ever more strict environmental quality standards such as the Marine Fuels Directive³, whilst regulatory measures for greenhouse gas emissions⁴ and energy efficiency⁵ also pose constraints on sites' operations. This accumulation of challenges comes at a time of unprecedented uncertainty in the global economy.

EUROPIA acknowledges the desire for further environmental improvements. However, if BAT Conclusions were adopted as included in Draft 2 of the Refinery BREF, BAT associated emission levels would result in putting disproportionate pressure on the industry. **Initial estimates indicate the**

¹ Directive 2010/75/EU, on industrial emissions (integrated pollution prevention and control) (Recast)

² European Council Conclusions, 28/29 June 2012, point 3, page 10

³ Council of the European Union press release of 23 May 2012 on a provisional agreement on the sulphur content of marine fuels
http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/130351.pdf,

⁴ Directive 2003/87/EC, establishing a scheme for greenhouse gas emission allowance trading within the Community

⁵ COM(2011)0370, Proposal on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC

investment costs would be in the range of several tens of billion euros whilst operational costs would also significantly increase.

Given these significant potential impacts, the Refinery BAT Conclusions must be based on robust grounds and should **recognise investments already made in existing facilities**; emission limits for existing facilities should not be set at such a high level of ambition that a refinery that has made earlier environmental investments, will now be forced to decommission these environmental facilities (making these a “regret” investment) and replace them with more advanced technology.

Broader impacts of regulatory action must be assessed

Member States recognise the EU refining sector as a key strategic asset and have reiterated their concerns at the recent Round Table on Refining (15th May 2012). Also, the Commission Staff Working Paper on Refining⁶ states that “*good and stable economic conditions*” are vitally important for the necessary investment in new conversion capacity to occur.

Unintended consequences for European industry should be avoided, as any shock to the system could accelerate the disengagement seen in recent years. This would, amongst other things, **endanger Europe’s security of supply** in vital finished products such as **transport fuels and heating oil**; cause negative **knock-on effects in high-end industrial clusters** such as petrochemicals and lead to a **loss of valuable research, innovation and skilled jobs**.

EUROPIA believes that following guiding principles should be followed:

1. Adequate economic assessment should be carried out for any implementing measure with such a potentially significant impact, given the situation of refining as well as the macroeconomic climate in general. Existing tools at EU level should be used, in particular a ‘**Competitiveness Proofing**’⁷. Whilst the impact assessment of the IED undertaken in 2007 did not identify any particular effects on the industry, many recent developments should be taken into account. The **cumulative impact of multiple layers of legislation** and the interlink between different regulatory measures with impact on the same industrial sector should be examined. A possible tool could be a ‘**Fitness Check**’ of European refining.
2. An approach based on **cost-effectiveness** should be taken, consistent with that in the Economics and Cross Media Reference document⁸ as well as legislation such as the National Emission Ceilings Directive⁹ and 2020 ambitions for the Thematic Strategy on Air Pollution¹⁰. This approach is important to trigger the technical efforts and investments needed to achieve the requisite emission reductions.

⁶ SEC(2010) 1398, November 2010 Commission Staff Working Paper on Refining and the Supply of Petroleum Products in the EU, page 17

⁷ 27.1.2012 SEC(2012) 91, Commission Staff Working Document “Competitiveness Proofing” Toolkit for use in Impact Assessments

⁸ EIPPCB, Reference Document on Economics and Cross-Media Effects, July 2006

⁹ Directive 2001/81/EC, on national emissions ceilings for certain atmospheric pollutants

¹⁰ COM(2005) 446, Communication of 21 September 2005 from the Commission to the Council and European Parliament

3. EU regulatory action must be practically applicable and consistent: the techniques suggested by the BAT Conclusions should be suitable for use at sites across the EU bearing in mind differences in configurations, energy access and feedstocks. In order to achieve this there is a need to:
- Ensure a **sufficiently wide range of BAT associated emission levels**, which allows applicability throughout the EU. It must be understood that the use of the same techniques in different refineries may result in very different emission levels.
 - Recognise the **distinction between requirements for new facilities and retrofitting existing facilities**, as investments necessary to upgrade existing units generally are far more important than the incremental costs associated with achieving the same results in a new unit.
 - Cater for **variability of operations by using long-term average emission limits**. Due to a number of factors, natural fluctuations in refinery performance are commonplace. Long term average emission limits will allow for the variability of operations while delivering the overall environmental performance requested.
 - **Avoid any disproportionate requirements**. As an example, full transparency in reporting of emissions can be achieved without the need for continuous measurement or monitoring of each individual emission source.
 - **Utilise the “bubble” concept**, which ensures control of the overall emissions while allowing refiners to find the most cost effective way, through investment options and/or operational measures, to achieve emission levels consistent with use of BAT in the refinery.

Conclusion

By applying these principles, EUROPIA believes it will be possible to develop a BREF with BAT Conclusions that meet the expectations of IED and **should be achievable for the majority of EU refineries without entailing disproportionate costs**. Failing to do so would inevitably lead to the need for a widespread use of the derogation clause described in IED Article 15(4).

The EU refining industry is closely cooperating with the Joint Research Centre in Seville to create an effective BREF document that describes the sector’s specific business characteristics, current emission levels and best practices in improving environmental performance.

EUROPIA is confident that the final outcome of the Refinery BREF can both benefit the environment and preserve the vital role refining plays in Europe’s energy supply.

EUROPIA, the European Petroleum Industry Association, is the single voice the European Refining & Marketing Industry, the downstream sector of Europe’s oil industry.

EUROPIA is a non-profit organisation and whose 17 members account for more than 80% of EU petroleum refining capacity and some 75% of EU motor fuel retail sales.

EUROPIA as a leading Industry Association aims at contributing pro-actively and constructively to the development of policies to safeguard the secure and sustainable manufacturing, supply and use of petroleum products by providing competent and expert advice to the EU Institutions, Member State Governments and the wider community.

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