

# The new Industrial Emissions Directive

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# Content of the presentation

## ■ The current industrial emissions legislation

## ■ From IPPC Review to IED ....

→ BAT and minimum standards

→ Large Combustion Plants

→ Other issues

- Scope
- Soil
- Inspections
- Other

*Michel Amand*

## ■ The future

# Setting the scene

# The current legal situation

European industry is subject to a range of legislation concerning industrial emissions ( $\neq$  CO<sub>2</sub>) ....

**IPPC Directive  
2008/1/EC**

**Large Combustion  
Plants (LCP) Directive  
2001/80/EC**

**Waste Incineration  
Directive 2000/76/EC**



**Directive on the limitation  
of emissions of VOC from  
solvents 1999/13/EC**

**Directives related to the  
titanium dioxide industry  
78/176, 82/883 and 92/112**

**European Pollutant  
Release and Transfer  
Register (E-PRTR)  
Regulation 166/2006**

# IPPC Directive Fundamentals

- **Prevention** of pollution and, if not feasible, **minimisation**
- **50,000** industrial/agro-industrial **installations**
- Installations must operate according to an **integrated permit (air, water, soil, waste, ...)** issued by competent authority
- Permits should contain **Emission Limit Values (ELVs) based on Best Available Techniques** for all relevant pollutants with possibility to take into account technical characteristics, geographical location and local environmental conditions
- **BAT information exchange** (“Sevilla process”)
  - BAT Reference Documents (**BREFs**), adopted by the Commission
- **Final deadline for implementation: 30 October 2007**

## Best

most effective  
in achieving a  
**high general  
level of  
protection** of  
the  
environment  
as a whole

## Available

developed on a scale to  
be implemented in the  
relevant industrial  
sector, **under  
economically and  
technically viable  
conditions**, advantages  
balanced against costs

## Techniques

the **technology**  
used *and* the  
way the  
installation is  
**designed, built,  
maintained,  
operated and  
decommissioned**

# IPPC Directive vs “sectoral” Directives

## ■ IPPC Dir

- Does not contain limit values or monitoring requirements
- Competent authorities set permit conditions based on **BAT**

## ■ “sectoral” Directives (LCPD, WID, SED, ...)

- Include **limit values, monitoring requirements** to be met by all installations
- **Compliance with these “minimum” requirements is not necessarily sufficient to ensure IPPC compliance!**

# IPPC Review 2006 - 2007



# The Commission's IPPC review (2006-07)

## Concerns with the status quo

The Commission's review identified the following key areas of environmental concern:

- 1) Insufficient implementation of **Best Available Techniques (BAT)**
  - Particular concerns for **LCPs** (in relation to TSAP objectives)
- 2) Limitations with regard to **compliance enforcement** and **environmental improvements**
- 3) Insufficient **scope** and **unclear provisions** to fully achieve the Thematic Strategy objectives (air, waste, soil)

# Industrial Emissions Directive (IED)

## The Commission Proposal

# Industrial Emissions Directive (IED) COM Proposal (21 Dec 2007)

## ■ **Recast** into one single act of IPPC and 6 'sectoral' Directives

- simplification + reduction of unnecessary admin burden
  - Clearer hierarchy of provisions (overlaps), simplified reporting, ...

## ■ **Key elements**

- 1) Strengthening of BAT and role of the BREFs
- 2) New minimum ELVs for LCP bringing them in line with BAT
- 3) Strengthened provisions on inspections, review of permit conditions and reporting on compliance
- 4) Extended scope and provisions on soil & groundwater protection

# Structure of IED

- Ch. I: Common provisions
- Ch. II: Provisions for all **activities listed in Annex I**
- Ch. III: Special provisions for **combustion plants** [ $> 50$  MW]
- Ch. IV: Special provisions for **waste (co-)incineration** plants
- Ch. V: Special provisions for installations and activities using **organic solvents**
- Ch. VI: Special provisions for installations producing **TiO<sub>2</sub>**
- Ch. VII: Committee, transitional and final provisions
- Annexes I - VIII

# Industrial Emissions Directive (IED)

## Negotiations between the Institutions

# IED

## First Reading

- **EP generally supported COM proposal on:**
  - strengthened application of BAT and role of BREFs
  - minimum provisions for LCPs
  - soil protection, inspections, update of permits and reporting
- **Council expressing strongly diverging positions on**
  - LCPs: more time/flexibility
  - Scope: general reluctance to extend IPPC scope
  - Soil: controversial

**but generally supported COM proposal on:**

- strengthened application of BAT and role of BREFs
  - Inspections, permit reconsideration
- **“European Safety Net” (ESN) proposal from EP not acceptable for Council**

# IED

## Second reading

- Three trialogues were held on the basis of the 76 EP ENVI amendments in order to reach an agreement that focussed on four key issues

1. *Flexibility in setting ELVs vs BAT AELs (art 15(4))*
2. *Adoption of BAT conclusions (TFEU)*
  - *implementing acts vs delegated acts*
3. *“European Safety Net” (ESN)*
  - *COM to assess on basis of MS reporting (3-yearly)*
4. *LCP flexibility*

- Final agreement end June 2010 → voted in EP on 7 July 2010

# Key issue # 1

## BAT



# IED – Issue 1: BAT

## What is the problem?

- IPPC Dir Art 9 offers flexibility for taking into account local conditions, but this is often ‘stretched’ in permits ...
- Permit conditions (ELVs) and real world emissions rarely in line with BAT levels from BREF (BAT AELs)
- Lack of justification for deviating from these BAT levels

### → Lack of implementation of BAT

causing concerns about achieving **environmental objectives**  
and **level playing field**

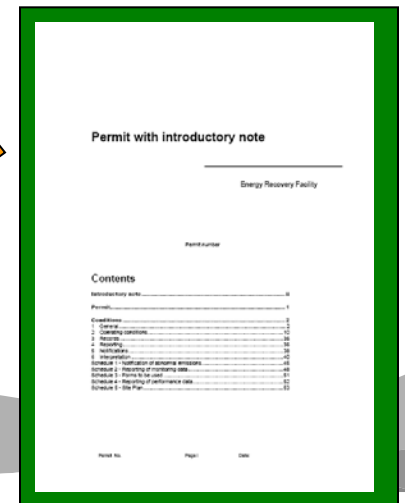
# IED – Issue 1: BAT COM proposal

**BREFs** to be adopted and published by  
Commission (as under IPPCD)

**BREFs** shall be **the reference** for setting  
the permit conditions

**Permits** must contain **ELVs** set by the  
competent authority that **do not exceed**  
**BAT AELs**

**Derogation** from BAT AELs is only allowed  
in **specific** cases as long as it is **justified**



# IED – Issue 1: BAT

## Final agreement

- BAT info exchange → BREFs: Sevilla process (unchanged)
- **BAT conclusions:** part of BREFs to be adopted via comitology (implementing acts)
- ELVs to ensure **emissions** do not exceed BAT AELs
- **derogations (art. 15(4))**
  - only if costs are **disproportionately higher** than benefits due to local/installation specific situation
  - **environmental safeguards**
    - no significant pollution
    - link to environmental quality standards
  - MS need to **report** on application of derogations

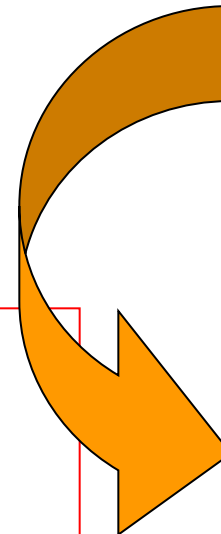
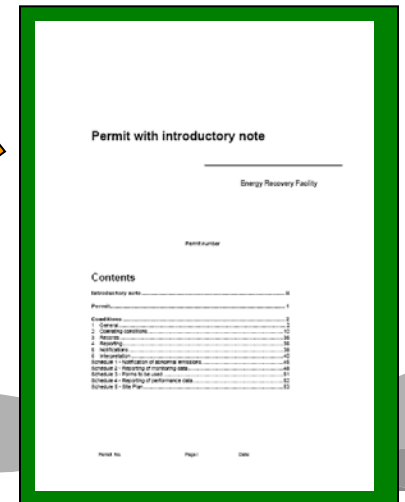
# IED – Issue 1: BAT Final agreement

BAT conclusions to be adopted through Comitology – followed by publication of complete BREF

BAT conclusions shall be the reference for setting the permit conditions

Permits must contain **ELVs** set by the competent authority that ensure that emissions do not exceed BAT AELs

**Derogation** from BAT AELs is only allowed in **specific cases** where assessment shows that achieving BAT AELs would lead to costs being disproportionately higher than environmental benefits due to the geographical location or the local environmental conditions or the technical characteristics of the installation



# Key issue # 2

## LCP

# IED – Issue 2: Large Combustion Plants (LCP)

## What is the issue?

### ■ Significant emission reductions needed to achieve Air Thematic Strategy (TSAP) objectives

- 74% (SO<sub>2</sub>), 49% (NO<sub>x</sub>) of **industrial** emissions (2005)
- 60% (SO<sub>2</sub>), 19% (NO<sub>x</sub>) of **total** emissions (2005)

### ■ Insufficient implementation of BAT (LCP BREF)

- Large gap between current emissions and BAT AELs
- LCP Dir ELVs generally much higher than BAT AELs but often used as the “default” in permitting

### ■ BAU policy will not achieve TSAP objectives

# IED – Issue 2: Large Combustion Plants (LCP) COM Proposal

- minimum ELVs for LCPs from **2016** on **aligned with upper end of BAT AELs** from LCP BREF 2006
  - differentiation new / existing
  - no more NERP (National Emission Reduction Plan) option
  - no “opt outs”

# IED – Issue 2: Large Combustion Plants (LCP) Flexibilities introduced

- **EP** generally agreed with COM Proposal except for refinery LCP
- **Council**: significant **concerns** about costs / timing

## **ELVs maintained but increased flexibility for existing plants**

- **1 January 2016** kept as default implementation date
  - **temporary flexibilities**: transitional national plan, opt-outs, small isolated systems, district heating plants
  - more derogations for **peak plants** (< 1500 h/y)
  - option to use **desulphurisation rate** instead of SO<sub>2</sub> ELVs
  - **refineries**: status quo at LCP Dir provisions, but review clause
  - **new plants**: implementation from end **2012** instead of 2016
- **EP second reading**: accepted flexibilities, but **minor limitations**



# In brief ...

# IED

## Does it meet COM's key objectives?

### 1) Strengthening of BAT and role of the BREFs

- ☺ **BREFs (BAT conclusions) are THE reference for permits**
- ☺ **as a rule emissions need to be < BAT AELs**
- ☹ **derogation possible ...**
- ☺ **... but only where criteria are fulfilled**

### 2) New minimum ELVs for LCP (BAT)

- ☺ **limit values were kept as proposed in most cases**
- ☹ **flexibilities added ...**
- ☺ **... but are mainly transitional**
- ☹ **weakened on peak plants, refineries, indigenous solid fuels**
- ☹ **revision may lead to some strengthening in future**

# Other key issues ...