



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL'ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

## **Draft final report of the Study “Assessment of options to streamline legislation on industrial emissions”**

### **UEAPME comments**

**Preliminary note:** Firstly we want to point out that the consultant has done a very good job with this study. It is clearly structured and very well researched. The impact assessment (IA) in general contains the details needed for the later political evaluation of the options. However certain further clarification is necessary in the section dealing with a possible ETS (see below).

When commenting on the final draft report we followed the structure of the study. We have included some comments on the text of the study itself and a few positions.

#### **1. Scenario 5 – Clarifying use of BREFs in permitting**

**Our position:** We fully support the idea to strengthen the awareness of competent authorities that sector specific ELVs could, but may not fulfil the obligation to meet BAT for IPPC installations. This needs no legal changes (as outlined in chapter 6.6.) but a support through a special guidance for the application of BAT in general and the correct use of BREF documents and sector-specific ELVs.

#### **2. Removal of unnecessary monitoring requirements on operators (scenario 2.2)**

**Comment:** The first bullet point in 6.3.2 seems to be a very reasonable approach and may help especially SMEs with less staff to handle all the monitoring and reporting requirements. As a criterion for a relief or exemptions (e.g. periodic instead of continuous monitoring, or longer periods when monitoring periodic) there could be mentioned on page 98 - as reasons for facilitations in monitoring requirements –

- if the operator can prove that only a certain (low) percentage of the emission limit value was emitted during the regular operation of the installation in the past with no expected changes for the future
- if a pollutant cannot occur or be measured because of technical reasons

As for the question if continuous or periodic measurements are required we refer to the approach the German TA Luft uses in Nr. 5.3.3.2. It stipulates that continuous monitoring is only required when certain mass flow rates are exceeded. The same approach can be found in Article 8 paragraph 2 of the SE-Directive.

#### **3. Single Directive (Scenario 3 and 4)**

##### **3.1. Clarification of different definitions for installations**

**Comment:** When saying “The new Directive would include clarification of the definitions for similar aspects where these differ across the IPPC and sector Directives.” in Chapter 6.5 it should be mentioned that the “similarity” of the aspects has still to be considered in a very careful way and all legal consequences must be checked.

**Our Position:** A widening of the scope as well as of the requirements of any of the Directive concerned must be avoided and is not the intention of “streamlining”.

### **3.2. Retaining sector-specific ELVs or not (Scenarios 3 or 4)**

The study deals with the problem if sector-specific ELVs could lead to lower environmental protection because it could “limit the uptake of BAT and BAT-AELs”. Partly these problems could be “mitigated” with a good guidance (see above 1.).

**Our Position:** The analysis in 7.7.1 and 7.7.2 demonstrates that the obligation that the ELVs are without prejudice to the requirement to set permit conditions based on BAT may lead to different permit conditions. However the BAT-approach of Art 9 of the IPPCD allows taking into account criteria to set permit conditions much higher than the upper end of the BATAELs. To avoid competition (market) distortion at least to a certain degree sector-specific ELVs and certain monitoring (compliance) requirements shall be kept as a “safety net”. But the latter requirements shall be amended where possible in the way outlined above in 2.

### **3.3. A combined permitting regime (scenario 2.1)**

**Our position:** Especially for SMEs Member States shall promote combined permitting regimes when implementing European legislation. In Austria we have very good experience with that.

## **4. Facilitate emissions trading in NOx and SO2**

Comments: We think that the impact assessment in chapter 7 for scenario 6 cannot demonstrate realistic figures due to the following reasons:

- The IA does not take into account transfer costs (e.g. contracting costs, costs for power exchange and capacity building within the companies). In reality the transfer costs may raise up to a major percentage of the cost of the allowance.
- The IA does not mention or discuss any questions concerning trading periods, base years and economic growth. The IA is therefore a very theoretical analysis.
- The IA is calculated on the basis of an ideal market model. Therefore every transaction is fulfilled without any delay only based on economic calculations.
- The target (bubble, cap) is calculated on the Basis of BAT-AELs. To meet the same environmental protection level as the existing IPPC BAT approach each installation had to be examined before setting the target. Therefore no significant relief of administrative costs for the authorities and the operators can be expected. Due the fact we expect permit conditions going beyond BAT because of the requirements of local ambient air quality the bubble calculated in the IA is too large to cause any cost savings and is therefore not representative enough for a Europe-wide evaluation.
- The concept of the IA assumes a medium allocation benchmark for all installations (otherwise there would be no cost savings, see table 7.12 on page 135). Therefore you may not reach the same environmental protection level like using the BAT approach. Otherwise some installations would have to go beyond BAT to gather allowances to trade.

- It has to be outlined in the study that for example the UK's approach in their NERP just calculated the target (bubble) on the basis the sector-specific ELVs and not on the considered BAT-AEL or even BAT based ELV (Art 9 paragraph 4 IPPCD) for every single installation.
- NOx and SO2 is regional problem and thus optimal areas have to be found. As outlined in Annex D of TNO's study "Establishment of optimal control areas for acidification, eutrophication and ground level ozone" (Roemer et al.) in commission of the European Commission trading with NOx and SO2 will not lead to advantage for mitigation costs or ecosystem protection. *"European wide trade in terms of tons of SO2 emissions would have a strong negative impact on the ecosystem protection in terms of acidification, sensitive ecosystem in terms of acidification have no the same distribution pattern over Europe as cost-effective mitigation of SO2 emissions. This means that European trade of SO2-emissions rights in addition to the Gothenburg Protocol would result in large cost savings but add the costs of (strong) deterioration of the ecosystems in Europe. Cost effective mitigation of NOx is distributed over Europe quite equally. Therefore the impact of NOx trade on both mitigation costs and ecosystem protection is limited. Larger savings can be reached by focusing on one environmental theme but only at the cost of lower ecosystem protection for the other themes."*

We think the aspects outlined above should be mentioned to be taken into account in the study, as far as they are not mentioned yet. In our point of view they are essential to ensure an objective evaluation of the pros and cons of an ETS instead of the BAT-approach as currently provided for in the IPPCD.

**Our position:** Concluding the above said we expect neither environmental nor economic benefits by facilitating Member States to introduce an emissions trading scheme.

Brussels/Vienna, 1<sup>st</sup> February 2007