

TO: Karmenu Vella, Commissioner for Environment, Maritime Affairs and Fisheries
Miguel Arias Cañete, Commissioner for Climate Action and Energy

RE: New EU standards for Large Combustion Plants

Brussels, 13 October 2016

Dear Commissioners Vella and Cañete,

On behalf of the European Environmental Bureau (EEB), I want to address a number of critical outstanding issues in the draft environmental performance standards for Large Combustion Plants (revised LCP BREF)¹ that will be discussed at the 20 October 2016 IED Forum meeting and the subsequent Commission decision. I would also like to welcome your commitment² to a Comitology vote on this issue in the second half of this year.

A report '[Lifting Europe's Dark Cloud: How cutting coal saves lives](#)', published this week by the EEB, the Health and Environment Alliance (HEAL), Climate Action Network (CAN) Europe, WWF and Sandbag, shows that significant public benefits could be achieved if the revised LCP BREF set limits based on proven Best Available Techniques (BAT).

In practice, this would mean annually a reduction in the total number of premature deaths from 8,900 to 2,600 deaths, 3300 fewer cases of chronic bronchitis, slashing the number of days of children suffering from asthma symptoms from 201,800 to 54,900, saving 1.9 million lost working days and cutting annual health costs from 24.3 billion to 7.1 billion euros compared to the current proposed BREF limits (upper emission range of BAT).

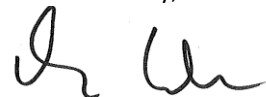
Specifically, critical loopholes from the latest draft revised LCP BREF need to be removed by:

- **Deleting footnote relaxations for “plants put into operation no later than 7 January 2014”**
- **Removing explicit relaxations for pre-1987 coal plants that operate less than <1500 hours**
The EIPPCB has stepped beyond its mandate for “consistency checks” and has even extended the relaxation to lignite and fluidized bed coal LCPs. We propose an alternative compromise solution which would provide for synergies of EU climate policies with industrial policy objectives.
- **Deleting or amending the derogation for high sulphur lignite combustion**
Allowing a tripling of SOx emissions for those operators burning unfavorable lignite should not be promoted. While full deletion is preferred, we propose compromise amendments to be incorporated.
- **Providing clarity about average emissions periods**
It needs to be clarified that both yearly and daily averaging periods of BAT-AEL need to be complied with.
- **Providing a fairer and technically robust definition of a “new plant”**
This would strengthen the practical effectiveness of the BAT Conclusions.

A more detailed elaboration of our proposals is annexed to this letter.

A robust implementation of these rules could make a positive contribution to improving the lives of millions of EU citizens and provides an opportunity to show the positive role the EU can play in this respect.

Yours sincerely,



Jeremy Wates
Secretary General

¹ See final Draft published June 2016.

² Your letter 17 November 2015 Ref ARES(2015)5589164.

Annex
Key issues proposed to be addressed at the
20 October 2016 IED Forum on Revised LCP BREF

- **Delete footnote relaxations for “plants put into operation no later than 7 January 2014” (EEB comment no #54)**

A number of footnotes in the current draft explicitly provide for higher levels of pollution for “plants put into operation no later than 7 January 2014”. This exception, based on an arbitrary date and without a technical basis, would relax the daily upper emission level for 98% of coal and lignite LCPs in Europe and should therefore be removed. These relaxations would effectively align new daily averaged pollution levels with the already minimum binding limits in the IED (Annex V), thereby failing to achieve any improvement or move towards the reduced pollution limits possible with BAT. The health related impacts would then correspond to the ‘IED 2016 scenario’ of the [Lifting Europe’s Dark Cloud report](#).

- **Remove explicit relaxations for pre-1987 ‘peak load’ plants for coal and lignite / consider alternative suggestion (EEB comment no #170)**

Special exceptions have been made for the oldest plants operating below a certain number of hours each year which also distorts competition between generators in the EU electricity market. The ‘Article 15(4)’ derogation already exists to allow these plants to operate. However, by offering an explicit relaxation here the need for public consultation and approval by authorities is circumvented. Further the EIPPCB has stepped beyond its mandate for “consistency checks” and has even extended the relaxation to lignite and fluidized bed coal LCPs, effectively doubling the concentrations of NO_x emitted from these plants which is not in line with the conclusion of the Final TWG. These plants are often used to meet winter demand, exacerbate air quality when it is already at its worse due to smog formation.

Similar to the recommendations of the recent EEA report³, we support synergies between EU industrial and air quality policy legislation (IED/NEC) to help meet the EU’s climate objectives. For this purpose we suggest a compromise amendment which would enable some of those plants running <1500 hours to operate under the generous NO_x level of 340mg/Nm³. This would allow an exemption to costly retrofits if in exchange the plant closes by 2024, which is consistent with dates set for in the IED Limited Lifetime Derogation (Article 33) and national phase outs dates for coal (e.g. UK and Germany).

Compromise proposal: footnote 7, page 769:

Amend Footnote 7 as follows: *~~“In the case of plants put into operation no later than 1 July 1987, which are operated <1500h/yr and will stop operating by 2024 and for which SCR and/or SNCR is not applicable, the higher end of the range is 340mg/Nm³.”~~*

- **Delete or amend the derogation for high sulphur lignite combustion (EEB comment #179)**

Burning high-sulphur lignite leads to very high levels of SO_x emissions. Yet a derogation currently in the text will allow a handful of badly-performing plants to emit almost three times more than the upper BAT range level due to site specific conditions. This is clearly a derogation in the sense of Article 15(4) of the IED. Similar to other stakeholders from Member States we would support its full deletion. The definition of new FGD systems is disconnected with the technical facts and the age of the FGD systems put forward as reference plants. The following compromise proposal could be considered:

-Change text in BAT 10.2.1.4 (page 771) as follows: *“For a combustion plant with a total rated thermal input of more than 300 MW_{th}, which is specifically designed to fire indigenous lignite fuels and which can demonstrate that it cannot achieve the BAT-AELs mentioned in Table 10.5 for techno-economic reasons **subject to prior validation of***

³ [European Environmental Agency on 4 October 2016 No 22/2016](#) ‘Transforming the EU power sector: avoiding a carbon lock – in’

a derogation pursuant to Article 15(4) of the Industrial Emissions Directive, the upper end of the yearly average BAT-AEL range is as follows:

-And change definition of “new FGD system” in page 742 to: ***“Either a flue-gas desulphurisation (FGD) system in a new plant that was commissioned after 2001 or upgraded after 2009 or a FGD system which includes at least one abatement technique introduced or completely replaced in an existing plant following the publication of these BAT conclusions”.***

- **Provide clarity about average emissions periods (EEB comment #56)**

At present it is not clear whether emission levels will have to be met based on annual or daily averages, or whether both will apply. There is a common understanding that both apply, but this is not explicitly specified. For legal security, consistent and harmonized implementation reasons this sentence should therefore be kept in the BAT-C.

Keep the sentence in the BAT Conclusions Section 10, page 746: ***“Where emission levels associated with the best available techniques (BAT-AELs) are given for different averaging periods, all of those BAT-AELs apply.”***

- **Provide a fairer and technically meaningful definition of a “new plant” (EEB comment #742)**

The current formulation allows for potential abuses by permitting authorities and fundamentally undermines the effectiveness of the LCP BAT standards in practical terms. As it stands, the standards for “new plants” will only apply effectively to combustion plants that have been permitted after the publication of the BAT conclusions i.e. not likely prior to Q2 2017 or even later if further delays for publication would occur. This provision effectively promotes the status quo in environmental performance for existing plants (in the sense of energy generation through combustion in installations above a certain threshold) which concerns roughly 98% of all coal/lignite plants for the decades to come.

The cut-off date refers to when a “combustion plant” has been permitted which are to be understood as boilers i.e. ***“Any technical apparatus in which fuels are oxidised in order to use the heat thus generated”***. This would mean that the only relevant parameter to consider in relation to differentiating the stricter BAT benchmarks (“new” plant standards) from the laxist BAT-C standards (“existing” plants standards) is the first permit date / and complete replacement date of a boiler/turbine/engine.

The precise terms used in these definitions have far reaching consequences in terms of effective environmental performance: **Significant emission reductions are achieved without boiler/engine/turbine change e.g. in case of replacement / upgrades of abatement installations such as FGD units or systems / new dust filter types which are not themselves defined as a “combustion plant” according to the currently used definition but significantly affect environmental performance of the LCP.**

The reference to “complete replacement” also raises legal uncertainty on what is meant. These elements should be considered since it is the uptake of the level of performance standards that is at stake here. Whilst boiler types and age indeed has implications on performance levels on certain parameters (e.g. NO_x formation, energy efficiency) that is clearly not the case for SO_x, dust and hg controls or water emissions. We expect that most of the boiler modifications (primary measures) already took place to meet the 2006 LCP BREF.

Amend definition to: ***“a combustion plant first operated at the installation following the publication of these BAT conclusions or a replacement of a combustion plant on the existing foundations of the installation, or replacement of an installation on the same site which has a technical connection and which could have an effect on emissions and pollution following the publication of these BAT conclusions.***

The BAT conclusions apply from the date of the publication of these BAT conclusions”.