



## THEMATIC PAPER: INTEGRATED POLLUTION PREVENTION AND CONTROL<sup>1</sup>

### 1 QUESTIONS FOR NGOS

In order to facilitate constructive and focused discussions in the Thematic Session on this topic at the Annual Meeting, it would be useful if you could prepare a short response for each of the questions below in relation to the situation in your country:

- Do you see EU policies/legislation in this area as beneficial for your country?
- Are there problems with the way how is the environmental *acquis* implemented in your country?
- Are there cases of newly built installations/facilities, mismanagement, or wrong implementation of the EU *acquis* you want to bring into attention during the meeting with the EU?
- Where you see problems, what should be done to improve the situation and what is the potential role of different actors (e.g. EU, Government, Environmental Forum, NGOs)?

The rest of this Thematic Paper is intended to help you formulate your responses/ suggestions. It sets out a brief background on EU IPPC and anticipated developments and then makes some comments on the state of play and key challenges on IPPC in candidate and potential candidate countries.

### 2 INTRODUCTION

Industrial activities are an important part of our economy. However, they also contribute to environmental pollution and to the production of waste and use of energy. Despite a reduction of emissions over the past decades, industrial production processes still account for a considerable share of the overall pollution in Europe. For example the largest industrial installations account for a significant share of total emissions of atmospheric pollutants (83% for sulphur dioxide (SO<sub>2</sub>), 34% for oxides of nitrogen (NO<sub>x</sub>), 43% for dust and 55% for volatile organic compounds (VOC)).

Since the mid 1990s the EU has combined its regulatory approach of industrial installations through the Integrated Pollution Prevention and Control (IPPC) Directive which aims to minimise pollution from various industrial sources throughout the European Union. The Directive is essentially a set of common rules for permitting and controlling air and water pollution from industrial installations in an integrated manner alongside other environmental protection requirements such as waste management. A number of recent proposals by the Commission will further streamline and strengthen this approach. IPPC is a difficult area of the EU environmental *acquis* to implement in candidate and potential candidate countries due to, among other things, the high costs of adjustment for existing installations to IPPC requirements. Therefore progress so far in these countries has been slow.

This Thematic paper sets out a brief background on EU IPPC policy and future anticipated developments. It then sets out the state of play and key challenges with IIPC policy in

<sup>1</sup> Paper Prepared for the Environmental Forum Annual Meeting, 19-20 November 2009, Brussels.



candidate and potential candidate countries before posing a number of questions for NGOs on the situation in their countries.

### **3 IPPC**

#### **3.1 Background**

Emissions from industrial installations have been subject to EU-wide legislation since the 1970's through various Directives which dealt with pollution in each environmental media (air, water, soil) one by one. Discussion since the 1980s of the need for the integrated permitting of industrial plants led eventually to the adoption of the IPPC Directive in 1996 ([1996/61/EC](#)). This was subsequently recast in 2008 ([2008/1/EC](#)).

#### **3.2 Current Legislation**

##### *The IPPC Directive*

The Directive requires operators of industrial installations to obtain an environmental permit, an authorisation, from the authorities in the EU countries. The permit conditions including emission limit values (ELVs) must be based on 'Best Available Techniques' (BAT). Manufacturers and authorities thus have to think about all emissions and impacts in the design of the whole plant using 'clean technology' rather than relying on 'end-of-pipe' techniques. To assist the licensing authorities and companies to determine BAT, the Commission organises an exchange of information between experts from the EU Member States, industry and environmental organisations. This results in the adoption and publication by the Commission of the BAT Reference Documents (the so-called BREFs) for various types of industrial activity. However, the licensing authorities have some flexibility in determining permit conditions, to take into account: the technical characteristics of the installation; its geographical location and; the local environmental conditions.

The Directive is a 'framework' measure, since it provides for common emission limits to be adopted at a later date, and creates a new structure within which certain existing quantitative EC standards set out in sectoral Directives are to be applied. (However see revision of the IPPC Directive below).

The industrial installations covered by the IPPC Directive are outlined by Annex I of the Directive. These numbered about 52,000 installations in October 2007. New installations, and existing installations which are subject to 'substantial changes', have been required to meet the requirements of the IPPC Directive since 30 October 1999. Other existing installations had to be brought into compliance by 30 October 2007. However, implementation has been a major task and most Member States missed this deadline. There remains much confusion about the limits set and the resulting perceived disparities have led to a lot of complaints across the EU.

#### **3.3 Further Developments**

In December 2007 the Commission presented a proposed revision of the IPPC Directive ([COM \(2007\) 844](#)) alongside a related Communication ([COM \(2007\) 843](#)). The proposal aims to tighten regulatory enforcement for industrial emissions through clearer and simpler rules and guidance and at the same time implement better regulation principles by moving towards a single Directive for industrial emissions. Therefore, the proposed new Directive on industrial emissions recasts seven existing Directives related to industrial emissions into one single Directive. These are the IPPC Directive (96/61/EC replaced by 2008/1/EC), the Large Combustion Plants (LCPs) Directive (2001/80/EC), the waste incineration Directive (2000/76/EC), the Solvents Emissions Directive (1999/13/EC) and three Directives on titanium dioxide (78/176/EEC, 82/883/EEC and 92/112/EEC).

This proposed recast IPPC Directive will: extend the law to more plants, including smaller combustion plants (20-50 megawatts) and other industrial activities; apply Best Available Techniques (BAT) limits under IPPC rules, with exceptions that would need justification; improve the implementation and enforcement of legislation; and streamline reporting and compliance requirements. The provisions of the six sectoral emissions Directives would largely

remain unchanged with the major exception of large combustion plants for which stricter minimum emission limits are proposed.

The proposals also, briefly, discuss the possibility of using IPPC-compatible, flexible market-based instruments such as an emission trading scheme for NO<sub>x</sub> and SO<sub>2</sub>. The Commission proposes to explore this possibility including a full analysis of options, the scope and the allocation of allowances, as well as the potential direct and indirect impacts for economic sectors. The Commission also argues that it will draw on the experience of the EU ETS for this analysis.

The passage of the proposals through the European Parliament and Council during the earlier half of 2009 has been far from smooth and pressure is mounting from industry to delay the overhaul of these rules on industrial pollution. So far particular attention has been given to the potential competitiveness issues arising from the swift introduction of tighter emission limits for Large Combustion Plants. The final adoption of the legislation is not expected until the end of 2010.

## 4 IMPLEMENTATION ISSUES IN CANDIDATE COUNTRIES

### 4.1 State of Play in Candidate and Potential Candidate Countries

For EU candidate and potential candidate countries implementation of the IPPC Directive is difficult. For example, Croatia indicated that difficulties with the implementation of the Directive may be expected due to high costs of adjustment of the existing installations to the IPPC requirements. According to Croatia's 2007 Screening report the IPPC Directive has not yet been transposed into Croatian legislation, though some of its elements are already applied on the basis of laws related to individual sectors. Similar situations can be found in other candidate and potential candidate countries.

To assess progress achieved by countries in preparing for accession to the European Union, the European Commission submits regular progress reports (yearly) to the European Council. Based primarily on EU progress report documents for targeted countries, the verdict for the IPPC directive "no progress/ very little progress" is given, positioning this thematic issue among the high priorities to be addressed.

In the most recent Progress Report ([COM\(2009\) 533](#))<sup>2</sup> the relevant conclusions for each country are as follows:

- **Albania** - Policy-making capacities and implementation and enforcement require further strengthening.
- **Bosnia and Herzegovina** - Bosnia and Herzegovina's preparations remain at an early stage. No significant progress has been made during the reporting period.
- **Croatia** - Good progress has been made on the environment, especially in the areas of air quality, industrial pollution control and risk management, and climate change. Overall, Croatia's preparations are advancing well. However, considerable efforts are still needed in reaching alignment with the *acquis* in the water sector and for nature protection. Implementation of the horizontal *acquis*, not least strategic environmental assessment and access to justice in environmental matters, needs to be improved. Administrative capacity needs further strengthening both at national and local level.
- **The former Yugoslav Republic of Macedonia** - Implementation of the legislation remains a considerable challenge. Administrative capacity is weak at both national and local levels. Significant further efforts are still needed to further align with the EU *acquis* in this sector and, moreover, to ensure the required investments.

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<sup>2</sup> As well as accompanying country reports on: Croatia ([SEC\(2009\) 1333](#)); Turkey ([SEC\(2009\) 1334](#)); the former Yugoslav Republic of Macedonia ([SEC\(2009\) 1335](#)); Montenegro ([SEC\(2009\) 1336](#)); Albania ([SEC\(2009\) 1337](#)); Bosnia and Herzegovina ([SEC\(2009\) 1338](#)); Serbia ([SEC\(2009\) 1339](#)); Kosovo Under UN Security Resolution 1244/99([SEC\(2009\) 1340](#)).

- **Montenegro**- While progress can be reported on adoption of horizontal legislation, implementation and enforcement need to be further strengthened.
- **Serbia** - Serbia has made good progress, notably with the adoption of a large package of laws and with the ratification of international conventions. Institutional capacity and technical and human resources, however, remain weak, especially at the local level. Further efforts need to be invested in the adoption of water related legislation and the overall environmental capacity building.
- **Kosovo** under UNSCR 1244 - Approximation is at an early stage. A number of environment framework laws have been adopted. Major efforts are needed to implement them and to meet EU environmental standards.
- **Turkey** - Some progress can be reported on waste, air quality, industrial pollution, risk management and chemicals. However, the overall level of alignment remains insufficient. Turkey has made no progress in the areas of water quality, nature protection and GMOs.

#### 4.2 The Role of the Instrument for Pre-Accession Assistance

From January 2007 onwards, the Instrument for Pre-Accession Assistance (IPA) replaces a series of European Union programs and financial instruments for candidate countries or potential candidate countries. EU candidate countries are eligible for all components of IPA but potential candidate countries are eligible for only two components. IPA allows beneficiary countries to prepare themselves for the successful participation in the Community's Cohesion Policy and its instruments upon accession, with a view to a better and more effective absorption of these funds once they become available. The IPA is intended to be a flexible instrument and distributes financial aid depending on the progress made by the beneficiary countries and their needs, as indicated by the annual assessments and strategic documents prepared by the Commission. The following funds have so far been allocated:

IPA, million Euros	Croatia	FYROM	Turkey	Albania	B&H	Montenegro	Serbia	Kosovo under 1244/99
2008-2012	769	448.8	3440.2	437	488.2	170	993.9	496.8

There is potential to use available IPA funds for improving integrated pollution and prevention control. However, there are questions on the ability of the countries to absorb available IPA funds for IPPC purposes.

#### 4.3 Key Implementation Challenges

The Commission's 1997 Staff Working Paper "Guide to the approximation of the European Union environmental legislation" (SEC (97) 1608) identifies the main problems faced by the candidate countries and describes the steps to be taken. The main sector-specific challenges are: air pollution, waste management, water pollution, industrial pollution control and risk management<sup>3</sup>, nuclear safety and radiation protection.

The main challenge to implement the IPPC Directive for candidate and potential candidate countries is how to apply procedures in the circumstances when countries (mostly) are at the pollution control level and therefore have to "jump" to integral pollution and prevention control level.

<sup>3</sup> Segments of IPPC permitting