

Commissioner Karmenu Vella
European Commission
B-1049 Brussels
Belgium

September 2016

Dear Commissioner Karmenu Vella

We recognise the clear need to minimise air pollution and emissions to land and water given the substantive environmental and human health benefits that can be achieved. We would like to offer our continued support for the Commission in its aims to ensure industry across the EU is operating using best available techniques to reduce emissions, and bring about continued improvements in environmental performance.

In this regard, we appreciate that the task of the Joint Research Centre in Seville to review all the Best Available Technique (BAT) Reference Documents (BREFs) by 2020 is extremely challenging. We strongly support recent moves by your officials to focus the BREFs on the pollutants that have the greatest environmental impact. Further improvements are still needed to ensure that the process is as effective, efficient and transparent as possible and that the legally binding limits set in each BREF's BAT Conclusions are proportionate, achievable and bring about meaningful reductions in harmful emissions.

We believe there is a particular urgency to clarify the process for developing the BAT conclusions and particularly the emissions levels that industry is required to meet. There is a lack of clarity as to how these levels are actually derived from the data provided by contributors through the technical stages, and on what basis any comments submitted and changes proposed, are or are not reflected in subsequent versions of the BAT conclusions. Member States must be given greater insight into the methodology used to determine the associated emission levels and assurance that the data used to derive them is sufficiently robust in terms of quality and comparability. Every effort should be made to ensure sufficient time is given to analyse each draft BREF and any changes made.

In what continues to be an uncertain global economic climate, it is increasingly important to ensure that the emissions standards and levels set in the BREFs are developed so that they achieve environmental improvement in a sustainable manner. It is about striking the right balance between effectively protecting people and the environment from key pollutants, without imposing a disproportionate financial cost or technical burden on industry. To help us strike this balance, we urge that the Commission develop the process to allow for a more comprehensive consideration of the impacts of each BREF and its BAT Conclusions, before Member States vote to adopt them.

This could be accomplished by building in an additional stage in the BREF review process, perhaps via a dedicated technical working group, which focusses on understanding the impacts, both in terms of the cost to industry of meeting the requirements and the environmental benefits that can be achieved. This work should include the cost of implementation and maintenance of abatement technology which could then form the core of an Impact Assessment for key aspects of each BREF to be published before Member States are asked to vote in Regulatory Committee. This would help fulfil the requirement of the Industrial Emissions Directive for available technology to be both economically and technically viable.

We consider the review of the Large Combustion Plant (LCP) BREF a high priority and strongly believe this BREF review in particular needs to include a more comprehensive assessment of the costs and benefits before it can be voted upon. We believe, such an assessment can be carried out, without causing extensive delay to the ongoing review and we urge the Commission to undertake this. The LCP BREF will have a significant impact on major European industrial sites in the electricity generating, combined heat and power production, oil and gas and energy-intensive sectors. The LCP BREF review must allow more thorough consideration of the realities of this large-scale and very complex sector. We therefore urge the Commission to take into account the comments (split views) submitted on the BREF and enable a debate between the Commission and Member States to allow them to make a more informed decision, based on a full understanding that the costs are proportionate to the environmental benefit that will be achieved, before voting takes place.

We believe that our suggested improvements to the BREF process and in particular, enhancing the process to provide a better understanding of the impacts, will deliver the commitment set out in the Commission's own Better Regulation package, published in May 2015 that '*an impact assessment and a positive opinion from the Impact Assessment Board*', [should accompany] '*all initiatives likely to have significant direct economic, social or environmental impacts*'¹.


Finally, we have some concerns that the 4-year implementation timeline once a BREF has been agreed does not fully take into account the complexity of the technical challenges that exist in certain sectors particularly those that consist of very large-scale, complex industrial units, requiring bespoke adaptations in accordance with a plant or site's specific design. This lack of flexibility for these sectors can result in widespread, time-limited derogations being required by industry. Derogations can only be granted subject to very strict criteria and therefore should be the exception not the rule. We would like this aspect to be considered in any future revision of the Directive, or for some recognition in the BREFs where this may be challenging due to the complexity of the plant adaptations needed.

We will continue to actively participate in the BREF process and offer to help the Commission bring about the necessary improvements to ensure sustainable development, promote growth and jobs whilst safeguarding the health of our citizens and our environment.

This letter has been copied to First Vice President Frans Timmermans.

Yours sincerely,

Paweł Sałek
Secretary of State
Government Plenipotentiary for
Climate Policy
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SEKRETARZ STANU
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¹ <http://ec.europa.eu/transparency/regdoc/rep/3/2014/EN/3-2014-9004-EN-F1-1.Pdf> (page 7)

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ΑΚΡΙΒΕΣ ΑΝΤΙΓΡΑΦΟ
Ο ΠΡΟΪΣΤΑΜΕΝΟΣ ΤΟΥ ΤΜΗΜΑΤΟΣ
ΓΡΑΜΜΑΤΕΙΑΚΗΣ ΥΠΟΣΤΗΡΙΞΗΣ &
ΕΞΥΠΗΡΕΤΗΣΗΣ ΤΟΥ ΠΟΛΙΤΗ
ΙΩΑΝΝΗΣ ΓΚΟΛΦΟΣ



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