

TO: Karmenu Vella, Commissioner for Environment, Maritime Affairs and Fisheries, Miguel Arias Cañete, Commissioner for Climate Action and Energy, Carlos Moedas, Commissioner for Research, Science and Innovation

CC: Commissioner for Health and Food Safety; Director DG JRC DIR J IPTS; Head of the EIPPCB

RE: Revision of Best Available Techniques Reference Documents (BREF) for Large Combustion Plants

Brussels, 23 March 2015

Dear Commissioners Vella, Arias Cañete and Moedas,

On behalf of the European Environmental Bureau, I am writing to you to express our concern that a revised version of the draft environmental performance standards for Large Combustion Plants (LCPs)¹ to be released soon by the European IPPC Bureau, the standards are set at too low a level and furthermore, that the regulated industries have had a disproportionate level of influence during the drafting process.

As highlighted in a recent report by Greenpeace "*Smoke and Mirrors – How Europe's biggest polluters became their own regulators*"², **the ambition levels of the benchmarks proposed are unsatisfactory on several counts.** If maintained, these would constitute a lowering of environmental standards that have been agreed already a decade ago on the existing largest coal/lignite LCPs (2006 LCP BREF) and it would undermine the polluter pays principle enshrined in the EU Treaty. The credibility of the EU to define "best" environmental performance and the aims of the Industrial Emissions Directive (IED) to *serve as a driver towards improved environmental performance across the Union* are put into question. Not only do third countries already establish stricter standards as highlighted in the Greenpeace report, but sufficient and robust enough data has been provided during the preparatory process to justify a significant tightening of levels that are already met under economically viable conditions. The "all in" approach for determining BAT conclusions that is currently in the draft proposal and which focuses on a pool of techniques currently used and deriving emission levels to allow operators of existing plants a maximum choice of techniques is not in line with *environmental performance outcome driven* approach set in the IED.

An unacceptable public governance issue has been highlighted on several occasions which requires a BREF rules amendment and a stricter stance by the European IPPC Bureau. A high number of Member States have nominated operators in their official delegations to the Technical Working Group (TWG), which is contrary to the intentions of the IED to establish an information exchange between four clearly distinct stakeholder groups. In order to facilitate the holding of TWG meetings in a more balanced manner, to reduce costs linked to organising the meetings because of excessive industry representation and in particular to enable a more time-efficient discussion³, the EEB proposes a new approach, to be tested in the upcoming Final LCP BREF TWG meeting. No "operator" should be allowed to officially represent any Member State at Final TWGs.

The EIPPCB has a considerable margin of discretion in the benchmark setting. European tax payers have legitimate expectations that the resources put into the Sevilla Process deliver meaningful results in terms of outcome based on the "best" performers which will improve public health and environmental protection.

Enclosed with this letter you will find a set of technical recommendations which in our view are required now to improve this situation and we urge you to ensure that in the final stage of the process these problems will be effectively addressed.

Yours sincerely,



Jeremy Wates
Secretary General

¹ See Draft 1 published June 2013 http://eippcb.jrc.ec.europa.eu/reference/BREF/LCP_D1_June_online.pdf

² See Greenpeace March 2015" <http://www.greenpeace.org/eu-unit/en/Publications/2015/Smoke-and-Mirrors-How-Europes-biggest-polluters-became-their-own-regulators/>

³ The European Commission is 2 years behind schedule for this BREF set in the IED / BREF review rules