

## The Industrial Emissions Directive ("IED") is due for its Second Reading in the plenary sessions of the European Parliament on 6 July 2010

Once agreed is likely to have far reaching consequences for many industries and sectors, including all those covered by the Integrated Pollution Prevention and Control 'IPPC' Directive.

The purpose of the IED is to revise and replace seven separate Directives -

- The IPPC Directive
- The three Titanium Dioxide Directives
- The Waste Incineration Directive
- The Large Combustion Plants Directive
- The VOC Solvents Directive

The IED legislative proposal recognised that the current legislation and its application varied from one Member State to another and the existing legal framework was resulting in unnecessary costs for the industry. The initial review process stemmed from a desire to deal with this in order to maintain equality between industries, while guaranteeing higher levels of protection for the environment and human health.

Specifically the IED aims to:

- strengthen and clarify the use of Best Available Techniques ("BAT")
- introduce a new requirement to monitor soil and groundwater on the site of installations
- lay down more specific provisions to ensure an effective implementation and enforcement of the Directive
- introduce requirements for environmental inspections
- set more stringent emission limit values ("ELVs")

The review process began at the end of 2005 and was based on an extensive programme of studies and consultation. The initial legislative proposal was produced in December 2007 and since then the draft IED has been further considered and negotiated by the European Commission, Council and Parliament. The

European Council produced a Common Position paper followed by a communication by the European Commission in February this year. As the Directive moves towards a Second Reading by the European Parliament of the finalised IED in July 2010, action on final negotiations and amendments has intensified..

Minimum emission limit values (ELVs) have been the one of the most controversial of the proposals. The European Council is in favour of more flexible minimum ELVs which is also favoured by business groups such as the CBI, whereas the European Parliament's environment committee ENVI recommends a retention of the more rigorous approach adopted by the European Parliament at First Reading which is also favoured by environmental groups.

Revisions to the procedures for determining Best Available Techniques 'BAT' have also proved to be an important issue in negotiations.

Some key environmental groups are also understood to be promoting important amendments to allow individual Member States to apply more stringent conditions in IED permits, for example setting conditions on greenhouse gas emissions covering CO2.

At Burges Salmon we are following the closing stages of the negotiation of this key Directive closely, and are also involved in a major two year project to consider its impacts and the way in which it is implemented for the water industry.

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**Disclaimer:** This briefing is not intended to be a complete coverage of the law in this area. Legal advice should always be taken in any particular case.

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