

TOR Reference No.:	Author(s): Aidan Whitfield
Version: 4	Date: 23 September 2015
<b>TERMS OF REFERENCE FOR WORK UNDER THE AUSPICES OF IMPEL</b>	

## 1. Work type and title

1.1 Identify which Expert Team this needs to go to for initial consideration	
Industry	<input checked="" type="checkbox"/>
Waste and TFS	<input type="checkbox"/>
Water and land	<input type="checkbox"/>
Nature protection	<input type="checkbox"/>
Cross-cutting – tools and approaches -	<input type="checkbox"/>
1.2 Type of work you need funding for	
Exchange visits	<input type="checkbox"/>
Peer reviews (e.g. IRI)	<input type="checkbox"/>
Conference	<input checked="" type="checkbox"/>
Development of tools/guidance	<input type="checkbox"/>
Comparison studies	<input checked="" type="checkbox"/>
Assessing legislation (checklist)	<input type="checkbox"/>
Other (please describe):	<input type="checkbox"/>
1.3 Full name of work (enough to fully describe what the work area is)	
Sharing of experience between IMPEL Members for implementing derogations from BAT-AEL's under Article 15 paragraphs (4) and (5) of the Industrial Emissions Directive 2010/75/EU.	
1.4 Abbreviated name of work or project	
Experience of Derogations from IED BAT-AEL's	

## 2. Outline business case (why this piece of work?)

2.1 Name the legislative driver(s) where they exist (name the Directive, Regulation, etc.)
Industrial Emissions Directive 2010/75/EU

## 2.2 Link to IMPEL MASP priority work areas

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Assist members to implement new legislation</li> <li>2. Build capacity in member organisations through the IMPEL Review Initiatives</li> <li>3. Work on 'problem areas' of implementation identified by IMPEL and the European Commission</li> </ol> | <input checked="" type="checkbox"/><br><br><input checked="" type="checkbox"/><br><br><input checked="" type="checkbox"/> |
|--|---|

## 2.3 Why is this work needed? (background, motivations, aims, etc.)

Article 15 paragraphs 4 & 5 of the Industrial Emissions Directive 2010/75/EU allow IMPEL Members to determine that in certain circumstances a less strict Emission Limit Value (ELV) than the BAT-AEL may be set in a permit. Extracts from the article are given below:

4. By way of derogation from paragraph 3, and without prejudice to Article 18, the competent authority may, in specific cases, set less strict emission limit values. Such a derogation may apply only where an assessment shows that the achievement of emission levels associated with the best available techniques as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to:

- (a) the geographical location or the local environmental conditions of the installation concerned; or
- (b) the technical characteristics of the installation concerned.

The competent authority shall document in an annex to the permit conditions the reasons for the application of the first subparagraph including the result of the assessment and the justification for the conditions imposed.

5. The competent authority may grant temporary derogations from the requirements of paragraphs 2 and 3 of this Article and from Article 11(a) and (b) for the testing and use of emerging techniques for a total period of time not exceeding 9 months, provided that after the period specified, either the technique is stopped or the activity achieves at least the emission levels associated with the best available techniques.

Member States are developing their own proposals for implementation which will subsequently be reviewed by the Commission. The Commission has not published guidance on how the determination should be carried out. This could lead to varying interpretations across IMPEL Member Countries. This project will aim to identify good practise and help regulators in IMPEL to develop a more consistent approach to IED derogations.

#### **2.4 Desired outcome of the work (what do you want to achieve? What will be better / done differently as a result of this project?)**

The BAT Conclusions for Iron and Steel Production and for Glass Production were published in March 2012. IMPEL Member Countries have 4 years to review permits and determine any requests for derogation, so this work should be completed by March 2016. This project will commence in April 2016 and will allow IMPEL Member Countries to share their experience and establish best practice for developing a methodology to assess derogation requests, and any problems that arose in implementing the BAT-AELs for these two industry sectors.

This knowledge will assist regulators in IMPEL Member countries in determining derogation requests for the other industrial sectors that have already had BAT Conclusions published (Chlor-alkali Production, Cement, Lime and Magnesium Oxide manufacturing, Pulp and Paper Industry, Pulp and Board, Tanning of Hides and Skins and Refining of Mineral Oil and Gas) and all the other sectors that have not yet had BAT Conclusions published.

#### **2.5 Does this project link to any previous or current IMPEL projects? (state which projects and how they are related)**

Project 10 2. Sharing of draft proposals between IMPEL Member Countries for implementing derogation from BAT-AELs under Article 15 paragraphs (4) and (5) of the Industrial Emissions Directive 2010/75/EU. This project collected information from IMPEL Member Countries in the summer of 2014, with a meeting in Edinburgh, Scotland in November 2014 attended by 19 IMPEL Member Countries.

The IED Implementation Project is looking at compliance issues such as site inspections. It does not overlap with this project because derogations are a permitting issue, not a compliance issue.

### **3. Structure of the proposed activity**

#### **3.1 Describe the activities of the proposal (what are you going to do and how?)**

Issue a questionnaire to IMPEL Members in March 2016, requesting information on determining applications for derogations from BAT-AELs.

Collate the answers to the questionnaire in May 2016.

Hold a workshop in London in June/July 2016 to review the responses to the questionnaire and share best practice.

Produce a report for submission to the General Assembly in December 2016.

### 3.2 Describe the products of the proposal (what are you going to produce in terms of output / outcome?)

A project report to assist IMPEL Member Countries in developing and improving derogation determination methodologies, based on the experience gained in the Iron and Steel industry and in the glass industry.

### 3.3 Describe the milestones of this proposal (how will you know if you are on track to complete the work on time?)

Questionnaire to be issued in March 2016, which is the date by which IMPEL Member Countries should have completed their reviews of permits in the Iron and Steel Production and Glass Manufacturing sectors

The workshop to be held in June/July 2016

The report to be completed by November 2016, for submission to the General Assembly in December 2016. The report will then be available early in 2017, so that IMPEL Member Countries can improve their derogation assessment methodologies for subsequent sectors, including specifically Chlor-alkali Production, Cement, Lime and Magnesium Oxide Manufacturing, Pulp and Paper Industry, Tanning of Hides and Skins, and Refining of Mineral Oil and Gas.

### 3.4 Risks (what are the potential risks for this project and what actions will be put in place to mitigate these?)

**Risk 1:** That the project team will not be able to complete the project.

**Mitigation 1:** The project team members come from 4 different regulatory organisations in the UK so the risk that all the team will be unable to complete the project is low.

**Risk 2:** IMPEL Member Countries unwilling to complete the questionnaire or attend the workshop.

**Mitigation 2:** For the previous project 19 IMPEL Member Countries completed the questionnaire and attended the workshop. This is a high level of participation for an IMPEL project. A similar level of interest is expected in this follow-up project.

During project 10.2, several IMPEL Member Countries requested a follow up project post March 2016. The report of project 10.2 said:

“A follow-up project should be initiated once further experience exists in the granting of derogations under Article 15(4) and (5). This may usefully take place after February 2016 given the expiry of the four year deadline for the updating of iron and steel and glass permits in line with Article 21 of the IED that month.”

## 4. Organisation of the work

### 4.1 Lead (who will lead the work: name, organisation and country) – this must be confirmed prior to submission of the TOR to the General Assembly)

Project Manager: Aidan Whitfield, Environment Agency, England

### 4.2 Project team (who will take part: name, organisation and country)

Sean Pruce, Environment Agency, England  
 Jeremy Walters, Natural Resources Wales, Wales  
 Iain Clenahan, Scottish Environment Protection Agency, Scotland  
 Keith Bradley, Northern Ireland Environment Agency, Northern Ireland

### 4.3 Other IMPEL participants (name, organisation and country)

Workshop participants from IMPEL Member Countries

### 4.4. Other non-IMPEL participants (name, organisation and country)

The European Commission, Brussels, Belgium  
 The IPPC Bureau, Seville, Spain

## 5. High level budget projection of the proposal. In case this is a multi-year project, identify future requirements as much as possible

	Year 1 (exact)	Year 2	Year 3	Year 4
How much money do you require from IMPEL?	17125	n/a	n/a	n/a
How much money is to be co-financed	0	n/a	n/a	n/a
Total budget	17125			

## 6. Detailed event costs of the work for year 1

	<b>Travel €</b> (max €360 per return journey)	<b>Hotel €</b> (max €90 per night)	<b>Catering €</b> (max €25 per day)	<b>Total costs €</b>
<b>Event 1</b>	360 x 5 = 1800	90 x 2 x 5 =	25 x 2 x 5 =	2950
Initial project team meeting		900	250	
February 2016				
London or Bristol				
5				
2 days, 2 nights				
<b>Event 2</b>	360 x 20 =	90 x 2 x 20 =	20 x 2 x 25 =	11800
Workshop	7200	3600	1000	
June/July 2016				
London				
25, of which 20 sponsored				
2 days, 2 nights				
<b>Event 3</b>	360 x 5 = 1800	90 x 5 = 450	25 x 5 = 125	2375
2 <sup>nd</sup> project meeting				
September 2016				
London or Bristol				
5				
1 day, 1 night				
<b>Event 4</b>	n/a	n/a	n/a	n/a
<Type of event>				
<Data of event>				
<Location>				
<No. of participants>				
<No. of days/nights>				
<b>Total costs for all events</b>	10800	4950	1375	17125

## 7. Detailed other costs of the work for year 1

<b>7.1 Are you using a consultant?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>7.2 What are the total costs for the consultant?</b>	[n/a]
<b>7.3 Who is paying for the consultant?</b>	n/a
<b>7.4. What will the consultant do?</b>	n/a

<b>7.5 Are there any additional costs?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Namely:
<b>7.6 What are the additional costs for?</b>	n/a
<b>7.7 Who is paying for the additional costs?</b>	n/a
<b>7.8. Are you seeking other funding sources?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Namely:
<b>7.9 Do you need budget for communications around the project? If so, describe what type of activities and the related costs</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Namely:

## 8. Communication and follow-up (checklist)

	What		By when
<b>8.1 Indicate which communication materials will be developed throughout the project and when</b>  <i>(all to be sent to the communications officer at the IMPEL secretariat)</i>	TOR <sup>✓*</sup>	<input checked="" type="checkbox"/>	September 2015
	Interim report <sup>✓*</sup>	<input type="checkbox"/>	
	Project report <sup>✓*</sup>	<input checked="" type="checkbox"/>	October 2016
	Progress report(s) <sup>✓</sup>	<input checked="" type="checkbox"/>	
	Press releases	<input checked="" type="checkbox"/>	
	News items for the website <sup>✓*</sup>	<input checked="" type="checkbox"/>	
	News items for the e-newsletter	<input checked="" type="checkbox"/>	October 2015
	Project abstract <sup>✓*</sup>	<input checked="" type="checkbox"/>	October 2015
	IMPEL at a Glance <sup>✓</sup>	<input type="checkbox"/>	
	Other, (give details):	<input checked="" type="checkbox"/>	High level guidance to assist IMPEL Member Countries assessing requests for derogations – probably as a checklist.
<b>8.2 Milestones / Scheduled meetings (for the website diary)</b>			
<b>8.3 Images for the IMPEL image bank</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>8.4 Indicate which materials</b>	All documents to be written in English. No translation		

<b>will be translated and into which languages</b>	required.
<b>8.5 Indicate if web-based tools will be developed and if hosting by IMPEL is required</b>	n/a
<b>8.6 Identify which groups/institutions will be targeted and how</b>	
<b>8.7 Identify parallel developments / events by other organisations, where the project can be promoted</b>	n/a

✓ ) Templates are available and should be used. \*) Obligatory

## 9. Remarks

*Is there anything else you would like to add to the Terms of Reference that has not been covered above?*

*In case of doubts or questions please contact the  
IMPEL Secretariat.*

*Draft and final versions need to be sent to the  
IMPEL Secretariat in word format, not in PDF.*

*Thank you.*