



## EUROPEAN COMMISSION

Internal Market, Industry, Entrepreneurship and SMEs

Enterprise Competitiveness, Industry and Growth Policies

**Industrial Competitiveness for Growth**

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### **Minutes of the Extended Steering Group Meeting on the Regulatory Fitness Check for Refining Brussels; 27 April 2015**

Present: **COMMISSION SERVICES:** BARREIRO Jesus (DG GROWTH); KIVISOO Kasper (DG GROWTH); CABALLERO SANZ Francisco (DG GROWTH); LUKACH Ruslan (IPTS-JRC); GIRAL-ROEBLING Anne (SG); MCDOWELL Malcolm (ENER); KASTRISSIANAKIS Stratis (DG GROWTH); KISZKO, Joanna (DG GROWTH); ULVILA, Ismo (DG CLIMA); ANTIDORMI, Rosa (DG ENV); RADWAY, Alex (DG ENV):

Via Audio-link: EDER, Peter (IPTS-JRC); BAKHTIEVA Dilyara (IPTS-JRC)

**MEMBER STATE REPRESENTATIVES:** CLAUSEN, Hartmut (DE); ERICSON Sven-Olov (SE); FIELDS Carmel (IE); GILLIQUET Christophe (BE); LEMARIE Yves (FR); FRAC Rafal (PL); SYRIOPOULOS, Christos (GR)

**INDUSTRY REPRESENTATIVES:** BARTELLONI Alessandro (FUELS EUROPE); DEL MANSO Franco (UNIONE PETROLIFERA); DUMONT de CHASSART, Francois-Xavier (TOTAL); GONSOLIN, Florie (FUELS EUROPE); MELIA, Francisca (FUELS EUROPE); NELSON Robin (CONCAWE); REID Alan (CONCAWE); SHARPE, Johan (EXXON MOBIL); VERSACE, Pietro Paolo (FUELS EUROPE);

**CIVIL SOCIETY ORGANIZATIONS:** not attended

The meeting was convened to provide feedback on how comments put forward during the previous extended Steering Group meeting related to the individual analyses of the ten pieces of legislation<sup>1</sup> had been incorporated, present the final deliverables of the technical work undertaken by IPTS-JRC (cumulative and competitiveness impact of selected legislation and impacts post-2012) and provide feedback for improving this deliverable. Prior to the meeting the members of the Steering Group had received the table of contents of the final technical report and the full text of the chapter on "*Economic impact of analysed directives on EU oil refining sector's competitiveness*" and

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<sup>1</sup> 21<sup>st</sup> November 2014 on RED, DCEEV, IED, SOSD, MFD, EED, AQD, Refining sector overview and OURSE Modelling; and 5<sup>th</sup> February 2015 on ETS, ETD and FQD

the section on "*relevant considerations post-2012*" which responds to the mandate as far as its statement relating to legislation that has yet to have any impact on the refinery sector due to the fact that the period of transposition is yet to be completed or secondary legislation under the legislative act has yet to be passed.

Francisco CABALLERO SANZ opened the meeting welcoming all participants and congratulating all parties for the excellent work collaboration which is bringing this exercise close to its conclusion. He highlighted the fact that the collaboration has allowed to clearly identify where we stand in terms of impacts so far of legislation and also acknowledge areas where additional impacts are expected post-2012. He expressed his belief that the process will show how and what can be done with this kind of sectoral fitness checks and hopes it will become an example for similar upcoming analyses. He also highlighted that the document will not reflect all of the parties' concerns but should be acceptable for all.

Once the final document is revised with the feedback of the extended SG meeting the technical work of IPTS will be over and DG GROWTH will draft the Commission Staff Working Document that, once approved following Commission's procedures, will be the official deliverable of the fitness check. The Technical report will be published jointly as background information. The expected deadline for the publication of these two documents is end of June 2015. Malcolm MCDOWELL (DG ENER) confirmed that the results of the final technical report together with the progress regarding the SWD will be presented in the upcoming Refining Forum scheduled for 15 June 2015.

A. Ruslan LUKACH presented how the IPTS has **addressed the concerns raised on the previous documents** focusing on six main areas of content.

- Regarding the **time scope of the analysis and analysis of post 2012 data** it was clarified that the document distributed for this SG covers the analysis of upcoming legislation.
- As far as the **comparisons of costs and benefits**, it was stated that benefits will be kept in the document as they stand but no comparison between costs and benefits will be made. In addition where cost and benefits are reported the reference will be homogenous (i.e. the whole of the EU both for costs and benefits). To make this message clear the introduction section will mention that the fitness check is not about CBA rather on seeing whether the additional costs, and eventual benefits for the sector, can be borne by the sector.
- With regards to the request to present an **analysis of costs with respect to margins**, IPTS mentioned that IHS margins are deemed to be too low when compared to other sources (SOLOMON) however the other source cannot be used due to data confidentiality issues. Moreover, neither IPTS nor CONCAWE have been able to understand the difference in margins between the two sources. Therefore, costs as percentage of margins are not considered in the report. Rather the report presents them as percentage of margins change which avoids the issue of what is the correct level of margins to use.
- Related to the treatment of the **possibility of cost-pass through of regulatory costs into final product prices**, IPTS assessed additional input provided by CONCAWE (DG CLIMA Carbon Leakage Evidence Study and NERA assessment of CE DELFT Study) that point towards the lack of

evidence about the occurrence and the extent of the cost pass through. The final version of the report will put additional caveats to the evidence of cost pass through. There will be a clear mention of the difference between short term and long term cost pass through. In addition, it will be stressed that the possibility and degree of cost pass-through depends on specific market conditions, such as exposure to international competition. The final message "there is no conclusive evidence of cost pass through" as it currently reads in the chapter on cumulative impact holds and the text in other chapters of the report will be consistent with it.

- Lastly, with respect to the **quality classification of the different data sources used**, the introduction of the report will put forward a hierarchy of data reliability with three levels in decreasing order of relevance for the analysis: raw SOLOMON data, calculation based on SOLOMON data, IHS data and OURSE modelling results and results of other studies.

FUELS EUROPE highlighted the importance of comparing costs to margins as only in that way it will be able to understand better how regulation affects refining operations. Moreover, it highlighted the reputation and wide use of IHS margins and how using different sources could provide confounding messages. *It was agreed that no single comparison with an average margin for the EU will be made; however the quantified costs will be presented in comparison to IHS margins of the top and lower quartiles of the refineries ordered according to their performance.*

FUELS EUROPE also highlighted that if wider societal benefits are mentioned in the document, wider societal costs should also be mentioned as described in the mandate. *It was agreed that the final document will mention the fact that the eventual displacement of production to 3<sup>rd</sup> countries is likely to lead to increased emissions as the EU is more energy efficient than the average of the competing regions.*

FUELS EUROPE said – with reference to the mandate of the Fitness Check - that the societal benefits of refining should be taken into account and requested to link the findings to the overall contribution of the refining industry to the EU economy, in chapter 2.2

- B. Ruslan LUKACH presented the **analysis of cumulative and competitiveness impacts** of the ten pieces of legislation (presentation attached). The following issues were discussed.

Expressions such as "likely negligible" regarding the indirect impact of ETS when there has been no quantification of costs should be avoided. It was agreed that additional efforts will be made to try to come with a range for the impact, and that a definition of what "negligible" means provided. In principle any cost below 1 euro cent per barrel of throughput can be qualified as negligible.

Reference to Industrial Emission Directive should be changed to Industrial Emissions legislation to avoid confusion.

Reference to the SOSD in the final chapter should mention that it cannot be totally comparable to the IEA requirement as they differ in so far as the latter

includes commercial stocks. However, the conclusion of negligible costs can remain.

DG ENV requested to include some additional wording on the impact of the upcoming tighter MFD requirement. They committed to provide the text to IPTS-JRC so it can be considered for inclusion.

The representative from Poland requested to clarify the additional costs related to the shift to lower sulphur oils as a strategy to meet the MFD. IPTS-JRC commented that this cost was compensated with higher product prices associated to lower sulphur marine fuels.

FUELS EUROPE asked whether the cost associated with decreases in utilization rates due to RED could be quantified. IPTS-JRC responded that with the current data that is not possible. FUEL EUROPE asked then that the report outlines that it has not been possible to quantify this aspect.

FUELS EUROPE requested whether the cumulative costs could be shown for different time periods. IPTS-JRC mentioned that the report includes a graph with those costs for 2-year periods. A trend line will be added to show how it increased up to 2008, however since then they have remained more or less stable.

FUELS EUROPE requested to modify the wording stating that loss of competitiveness was only due to higher energy costs. IPTS-JRC highlighted that the overall message is that there is also regulatory impacts, albeit of a smaller nature than those of energy costs, however the wording will be revised to avoid the idea that only energy costs matter.

DG CLIMA mentioned that regulation outside the EU also has an impact on competitiveness. IPTS-JRC mentioned that for those pieces of legislation where the analysis can be made (mainly FQD) the comparison with other world regions has been made. Moreover DG GROWTH highlighted that it is precisely on EU legislation where the Commission needs to know the cost with the objective of minimizing it without putting at risk attaining the policy objectives.

FUELS EUROPE highlighted the importance of the change of rules in ETS Phase III. IPTS-JRC mentioned that the impact is described in the post-2012 document. DG CLIMA argued that then the text should also mention the over allocation during phases I and II. It was agreed that both issues would be mentioned in that document without conclusions on how the excess allowances were actually used.

FUELS EUROPE highlighted the sensitivity of the presentation of evolution of margins by region and doubted the added value of the analysis. It also requested to delete the last bar in Fig. 32 (comparing margins spread between Iberia with Italy/Greece). IPTS-JRC considered that the regional divergences serve to bring to the attention other factors (location, size) that also affect the impact of legislation. Additional efforts will be made to disentangle the location and size effects; moreover the data of regions will be anonymized (as

it is done for individual refinery data) as naming does not add anything to the message.

The representative of Poland inquired about the policy recommendations that will be included in the Commission's SWD. DG GROWTH responded that the policy recommendations will not address the specific pieces of legislation as the analysis has shown that there is nothing "wrong" with them. Rather they will focus on the need to analyse impacts of different legislation on this sector when coming up with new proposals. Moreover, it will recommend this kind of analysis for additional sectors as part of the improved decision making process in the Commission.

Jesus BARREIRO-HURLE concluded the meeting thanking all participants for their comments and commitment to the process. He also informed that final versions of the document will be circulated to the SG members for a final verification that the changes made respond to the expectations raised. This will be done during the second half of May. Comments, if any, should be sent shortly after to allow having a SWD draft text ready for ISC inside the Commission in early June.

Before closing, at the initiative of FUELS EUROPE, the SG members present wanted to make explicit the acknowledgement to the IPTS-JRC team for the effort made and the high quality of their work.

#### **NEXT STEPS**

- IPTS-JRC to incorporate the feedback on the final document by May 8<sup>th</sup>.
- DG GROWTH to circulate the final version of all documents to SG members by May 18<sup>th</sup>.
- Presentation of final results at Refining Forum on June 15<sup>th</sup>.

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