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To: Members of the BRef UK Technical Working Groups  
Cc.: Members of the Part A Forum

9 February 2016

Dear colleagues

**UK Process for negotiating Best Available Technique (BAT) Reference Documents (BRefs)**

Firstly, on behalf of the team in Defra, I wanted to thank you for your valued contribution to the UK's input into the BRef review process so far. As you will all be aware, under the Industrial Emissions Directive, the BAT Conclusions and associated emissions limits developed as part of a BRef review must be reflected in environmental permits, making them, in effect mandatory. The application of these conclusions therefore has the potential to have a significant impact on both the environment and UK industry.

There is a clear need to ensure these limits are appropriate, proportionate and lead to a real reduction in the emissions which impact on the environment and human health. To ensure we effectively influence the content of future BRefs, we have put in place a more structured approach on which we would welcome your views, comments and suggestions. Building on the work of the technical working group leads so far, our approach aims to:

- Establish governance and oversight mechanisms to allow for timely input into BRef negotiations and proactively promote UK interests;
- Ensure the UK takes advantage of opportunities to influence the content of the BRefs and lobby for changes where necessary;
- Ensure the limits and requirements set out in BRefs reflect the real-world use of BAT to deliver benefits to human health and the environment in a proportionate, appropriate and balanced way;
- Clearly set out the roles and responsibilities of those representing or speaking on behalf of the UK at EU-level, technical meetings;
- Allow for the development and presentation of agreed and aligned UK positions that reflect the Governments' position, based on a robust evidence base and reflect both strategic considerations and the full spectrum of views (including from regulators, industry and NGOs).

**Process and Governance:**

*BREF Programme Board*

To help coordinate the UK's input into the BRef review process, Defra has established a BRef Programme Board. This is an inter-Governmental group, chaired by Defra and consisting of representatives from UK Governments, Whitehall Departments and UK Regulators. The Board is responsible for providing strategic oversight for the overall programme of BRef reviews. This will include sign-off of the UK's negotiation strategy, wish-lists, comments and any other UK submissions in relation to each BRef review, taking into account the recommendations of the UK technical leads.

Decision making responsibility for the final UK voting position on each BRef will remain with Ministers via coordination through this Board.

## *UK Shadow Technical Working Groups and Working Group Leads*

There will continue to be shadow UK technical working groups for each BRef review led by a representative from one of the UK regulators. Shadow technical working group leads will be responsible for coordinating the UK's input into the review process. They will be assisted by a deputy shadow technical working group lead (also from one of the UK regulators) to provide resilience, continuity and support throughout the process. The BRef Programme Board will be responsible for agreeing both the lead and deputy lead for each shadow technical working group based on recommendations from the UK Regulators.

Each UK shadow technical working group lead will also act as the UK lead at technical working groups in Seville. All input at EU level will be agreed and coordinated through them. Members of the shadow technical working groups will include representatives from industry and NGOs (as appropriate) whose input will be critical to ensuring the UK position on a BRef is based on real data and available evidence.. Members will be invited to join by the UK leads following consultation with the BREF programme board. Organisations will be able to request to join a shadow group by contacting the UK lead. The Terms of Reference for these groups are attached at Annex A.

### **Role of Members of the UK Delegation at EU-level Technical Working Groups (e.g. in Seville):**

In order for the UK to be as effective as possible in negotiating the BRefs, we believe it is important to ensure that we present a consistent message that has been agreed across the UK and that we have the relevant, broad technical expertise readily available to participate in discussions at EU-level. We therefore consider it appropriate and necessary that the UK delegation can include representatives from both industry and environmental NGOs (as appropriate) for individual BRefs.

The delegation may therefore consist of members of the UK Shadow Technical Working Groups. In order to ensure that our aims are met, we are in the process of developing a set of clearly defined roles and responsibilities that are associated with being part of the UK delegation, which we will ask any potential member of the delegation to agree to. This document will be circulated once approved by the BREF Programme Board.

We would welcome your comments or any suggestions with regards to our approach or to the Terms of Reference at Annex A. These can be forwarded by email to my colleague **Helen Purnell** at [helen.purnell@defra.gsi.gov.uk](mailto:helen.purnell@defra.gsi.gov.uk) by **Friday 26<sup>th</sup> February 2016**. Alternatively, if you would prefer have a face-to-face or telephone discussion within the same timeframe, then please contact Helen on 020 802 63237 to make arrangements. Please also find enclosed for information and reference an EU BRef review timetable (as currently understood) at Annex A and at Annex C, an indicative process map for a 'typical' BRef review.

Finally, I would like to thank you again for your continued cooperation and participation on behalf of your sector/organisation which is fundamental to the UK's ability to influence the BRefs effectively. We look forward to working with you in the near future.

Yours sincerely



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Encl: **Annex A:** Terms of Reference for the BRef UK shadow Technical Working Groups  
**Annex B:** Current BRef review timetable  
**Annex C:** BRef review process map

## **Annex A:**

### **BREF UK SHADOW TECHNICAL WORKING GROUP**

#### **TERMS OF REFERENCE**

##### **BACKGROUND:**

1. The Industrial Emissions Directive (IED) covers many industrial sectors whose activities can potentially harm human health and the environment. The IED requires that Annex I activity industrial installations apply the associated emission levels, waste management and minimisation, management systems and energy efficiency requirements commonly referred to as best available techniques (BAT). They aim to bring continual improvement to the environmental performance of European industry. The BAT conclusions (BATC) are published as reference documents known as BRefs and are expected to be reflected in an installation's permit.
2. Under the previous Integrated Pollution Prevention and Control (IPPC) directive, the emission levels set out in BRefs, were one source of information, alongside site specific aspects, for permit writers to consider including in permit conditions. However, under the IED, operators are now required to meet the levels (known as BAT-Associated Emission Limits (BAT AELs)) contained in the BATC, as they are adopted through a comitology procedure.
3. BATC apply across every Member State, including the UK. Once published by the Commission; industry usually has 4 years to comply. The potential impact on UK industry can therefore be very significant due to the potentially high cost of investment needed to meet the required emissions limits. In addition, the 4 year timeframe may be shorter than usual upgrade project timescales, resulting in additional cost or delays in compliance.
4. The BRefs are developed at EU-level by a Technical Working Group through information exchange between representatives from Member State Governments, industry, NGOs and the Commission. Ensuring a good level of technical expertise from a cross-section of these UK interest groups is essential to effectively formulating and negotiating the UK position on BAT for each sector.

##### **AIMS AND OBJECTIVES:**

5. The aim of the BRef UK Shadow Technical Working Groups is to inform the UK's input into individual BRef Review negotiations, in particular by making recommendations to the BRef Programme Board in respect of each draft BRef document (at each appropriate stage).

##### **FUNCTIONS:**

###### **UK Shadow Technical Working Group Leads:**

6. It will be the responsibility of the Shadow Technical Working Group Leads to:
  - a. Identify priority concerns and potential impacts for the UK resulting from the BRef review;
  - b. Once signed off by the BRef Programme Board, submit, on behalf of the UK, any positions (or "wish lists") and written comments on drafts at relevant stages;
  - c. Submit, on behalf of the UK, any evidence and data for installations that demonstrate BAT;
  - d. Ensure the comments of the Shadow Technical Working Group are representative of the views of members, and where comments are not included in the UK position, ensure such decisions are explained;
  - e. Raise priority issues with EU-level Technical Working Groups
  - f. Monitor and provide feedback to the BRef Programme Board, on the position of the other Member States, building alliances as appropriate.

## UK Shadow Technical Working Group Members:

7. Shadow Technical Working Group Members will support the Shadow Technical Working Group Leads by:
  - g. Developing draft positions (or “wish lists”) and written comments on drafts at relevant stages as required;
  - h. Helping to engage and consult with interested stakeholders to gather input from all sides (including relevant NGOs and industry);
  - i. Helping to identify any plants / installations that demonstrate BAT;
  - j. Helping to commission, gather and verify evidence and data from UK industry to support the BRef review and UK positions;
  - k. Helping to identify the potential impacts, environmental and economic effects (including cross-media effects), red lines, specific issues and concerns of the technical aspects within a BRef document;
  - l. Contributing technical expertise, to the recommendations to the BRef Programme Board to inform negotiating and influencing strategies and a UK voting position;
  - m. Helping to implement the negotiation strategy agreed with the BRef Programme Board;

## **MEMBERSHIP:**

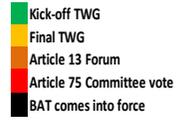
8. The Shadow Technical Working Group will be chaired by a Technical Lead appointed from one of the UK Regulators. The Chair will also be the Technical Lead for the UK delegation at EU-level technical working group meetings. Where possible, a Deputy Technical Lead/Deputy Chair (also from one of the UK Regulators) should be appointed to provide resilience.
9. Membership of each Shadow Technical Working Group will differ depending on the specific sector impacted by each individual BRef review but will comprise core representatives from the following organisations:
  - Environment Agency
  - Natural Resources Wales
  - Northern Ireland Environment Agency
  - Scottish Environment Protection Agency
  - DECC (as a regulator)
  - representatives of industry / NGOs
  - Defra
  - Other Government Department (sector-specific leads)
  - DECC (On and Offshore policy leads)

## **METHOD OF OPERATION:**

10. The Shadow Technical Working Groups will operate in an appropriate way to achieve the UK’s aims. This could be mainly by correspondence or through regular meetings, or a combination of these mechanisms, as determined by the STWG.
11. Shadow Technical Working Group meetings will take place as and when required by the timings of each stage of the BRef negotiation (e.g. after each EU Technical Working Group and publication of or a new draft document).

## Annex B - EU BREF REVIEW TIMETABLE

Sector	Code	IED - Best Available Technique Reference Document	2015		2016				2017				2018				2019				2020			
			Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec
Energy	LCP	Large Combustion Plants- Final TWG																						
		Large Combustion Plants- Article 13 Forum																						
		Large Combustion Plants- Article 75 Committee																						
	REF	Refining of Oil and Gas- BAT comes into force																						
Metals	FMP	Ferrous Metal Processing Industry- Kick off TWG																						
		Ferrous Metal Processing Industry- Final TWG (approx.)																						
		Ferrous Metal Processing Industry- Article 13 Forum (approx.)																						
	NFM	Ferrous Metal Processing Industry- Article 75 Committee (approx.)																						
		Non-Ferrous Metals Industries- Article 75 Committee (approx.)																						
		IS	Non-Ferrous Metals Industries- BAT comes into force																					
Minerals	GLA	Iron and Steel Production- BAT comes into force																						
		Smitheries and Foundries Industry - Kick-off TWG (approx.)																						
	CLM	Smitheries and Foundries Industry - Final TWG (approx.)																						
		Smitheries and Foundries Industry - Article 13 Forum (approx.)																						
Ceramics	CER	Smitheries and Foundries Industry - Article 75 Committee (approx.)																						
		Glass Manufacture- BAT comes into force																						
		Production of Cement, Lime and Magnesium Oxide- BAT comes into force																						
Chemicals	LVOC	Ceramic Manufacturing Industry - Kick-off TWG (approx.)																						
		Ceramic Manufacturing Industry - Final TWG (approx.)																						
		Ceramic Manufacturing Industry - Article 13 Forum (approx.)																						
	WGC	Ceramic Manufacturing Industry - Article 75 Committee (approx.)																						
		*NEW* Waste Gas Treatment in the Chemicals sector- Kick-off TWG (approx.)																						
		*NEW* Waste Gas Treatment in the Chemicals sector- Final TWG (approx.)																						
		*NEW* Waste Gas Treatment in the Chemicals sector- Article 13 Forum (approx.)																						
	CAK	*NEW* Waste Gas Treatment in the Chemicals sector- Article 75 Committee (approx.)																						
	LVIC-AFF	Production of Chlor-alkali- BAT comes into force																						
	LVIC-S	Production of Chlor-alkali- BAT comes into force																						
OFC	Large Volume inorganic Chemicals - Ammonia, Acids and Fertilisers <i>ON HOLD</i>																							
POL	Large Volume inorganic Chemicals - Solids and Others Industry <i>ON HOLD</i>																							
SIC	Manufacture of Organic Fine Chemicals <i>ON HOLD</i>																							
Waste	WT	Production of Polymers <i>ON HOLD</i>																						
		Production of Speciality Inorganic Chemicals <i>ON HOLD</i>																						
	WI	Waste Treatment- Final TWG																						
		Waste Treatment- Article 13 Forum (approx.)																						
Others	IRPP	Waste Treatment- Article 75 Committee (approx.)																						
		Waste Incineration- Final TWG (approx.)																						
		Waste Incineration- Article 13 Forum (approx.)																						
	STS	Waste Incineration- Article 75 Committee (approx.)																						
		Intensive Rearing of Pigs and Poultry- Article 75 Committee																						
		Surface Treatment with Organic Solvents- Kick-off TWG (combined with WPC)																						
	FDM	Surface Treatment with Organic Solvents- Final TWG (approx.)																						
		Surface Treatment with Organic Solvents- Article 13 Forum (approx.)																						
		Surface Treatment with Organic Solvents- Article 75 Committee (approx.)																						
		Food Drink and Milk Industries- Final TWG																						
TXT	Food Drink and Milk Industries- Article 13 Forum (approx.)																							
	Food Drink and Milk Industries- Article 75 Committee (approx.)																							
	Textiles Industry- Kick-Off TWG																							
SA	Textiles Industry- Final TWG (approx.)																							
	Textiles Industry- Article 13 Forum (approx.)																							
	Textiles Industry- Article 75 Committee (approx.)																							
	Slaughterhouses and Animal by-Products- Kick-off TWG (approx.)																							
TAN	Slaughterhouses and Animal by-Products- Final TWG (approx.)																							
	Slaughterhouses and Animal by-Products - Article 13 Forum (approx.)																							
	Slaughterhouses and Animal by-Products- Article 75 Committee (approx.)																							
General	PP	Tanning of Hides and Skins- BAT comes into force																						
	ICS	Pulp and Paper Industry- BAT comes into force																						
	ENE	Industrial Cooling Systems <i>PENDING (may be combined with ENE)</i>																						
	EFS	Energy Efficiency <i>PENDING (may be combined with ICS)</i>																						
		Emissions from Storage <i>PENDING</i>																						



# Annex C - BREF Review Process Map

