

Eurobrief April 2009

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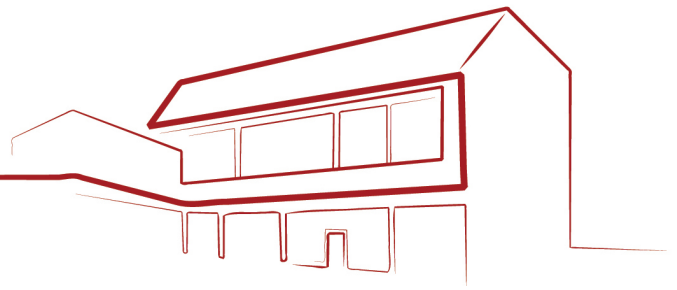
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EDITORIAL

European cement industry recognised as vulnerable to carbon leakage

April 2009 - On 29 April the European Commission publicly confirmed that the European cement industry qualifies as a sector vulnerable to carbon leakage under the criteria laid down in the revised Emission Trading Directive. The list publicised by the Commission is based on a quantitative assessment carried out by DG ENTR which looked at 231 sectors - not only ETS sectors - at NACE 4 level. In total, 231 sectors were assessed. 134 of these qualify as vulnerable to carbon leakage with a trade intensity above 30%. 54 sectors lie between 10% and 30% trade intensity and, for these, an increased cost of above 5% of GVA will have to be demonstrated. 43 sectors are below 10%. 11 sectors are still under assessment and no trade data was available for 16 sectors.

As expected, the cement industry qualifies as highly vulnerable to carbon leakage with an increased cost induced directly by the ETS of 55.06% of GVA and an increased indirect cost of 4.27% of GVA. Cement is therefore well above the 30% of GVA required under the ETD. Only



three sectors qualify under this 30% of GVA criterion: cement, lime and oven coke.

The 4.27% of GVA for indirect (electricity) costs is based on less than 50% of the GVA of the EU cement industry. The European Commission will approach the Member States in order to complete the data in this respect and CEMBUREAU strongly recommends that the information be supplemented.

The recognition that the European cement industry is vulnerable to carbon leakage in the absence of a level playing field entails very significant consequences, such as free allocation on the basis of a benchmark and the possibility to include importers in the ETS as well as the possibility for Member States to compensate higher electricity prices through State aids.

On all fronts CEMBUREAU has identified appropriate actions, the most urgent of which is the definition of a benchmark through the procedure of comitology with scrutiny (see February 2009 Eurobrief). For that purpose, the European Cement Industry has collected all necessary data and developed an independent, reliable and comprehensive database, the so-called GNR (Getting the Numbers Right), from which information is available to the European Commission, consultants and Member States. It provides current and robust data on CO₂ emissions and the energy performance of the cement industry both in Europe and worldwide and is allowing CEMBUREAU to present a unique, EU-wide benchmark.

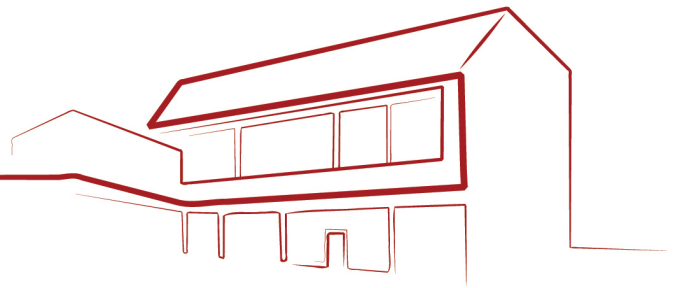
CEMBUREAU is ready to contribute to WG3 (the comitology Working Group on ETS) and welcomes, within this framework, the consultation of stakeholders initiated by EcoFys, the consultant appointed by the Commission to develop the sectoral benchmarks.

EU EMISSIONS TRADING SCHEME

Council adopts climate-energy legislative package

The European Council adopted the climate-energy legislative package, designed to help meet the EU's target of a 20% reduction in greenhouse gases and a 20% share of renewable energy in the EU's total energy consumption by 2020, earlier this month. The most significant Directive in the package is, of course, the revision of the Emissions Trading System (ETS) for greenhouse gases. From 2013 onwards, industry will contribute significantly to the EU's overall target of cutting greenhouse gas (GHG) emissions by one-fifth compared to 1990 levels by 2020.

The new ETS provides that GHG emission permits will no longer be given to industry for free, but be, in principle, auctioned by Member States from 2013 onwards. ETS sectors must start by purchasing 20% of their emissions permits at auctions in 2013. That rate will rise gradually to 70% in 2020, with a view to reaching 100% in 2027. Ten Member States - Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland and Romania - can apply for



reduced auctioning rates in power production: at least 30% in 2013, gradually rising to 100% in 2020.

The Directive also makes it clear that a number of sectors could be exposed to carbon leakage (see editorial).

The European Commission is to determine, via the procedure of comitology with scrutiny, the list of sectors or subsectors vulnerable to carbon leakage for the first time by 31 December 2009 at the latest. The issue of carbon leakage will also be subject to a further review before the start of the third trading period in 2013. Member States must be in compliance with the Directive by 31 December 2012. CEMBUREAU is closely monitoring the establishment of the list of sectors at risk of carbon leakage and has attended the two ECCP meetings which took place in April (see editorial).

Free allocation of allowances alone, however, will not cover the cement industry's needs because of the cap. Therefore, the establishment of a level playing field by including EU importers in the ETS for as long as no international agreement brings about equal treatment is vitally important. CEMBUREAU is also working on this issue.

EU EMISSIONS TRADING SCHEME

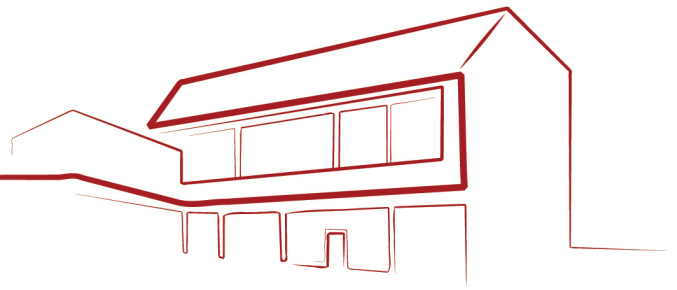
Carbon capture & storage Directive adopted in first reading

The Proposal for a Directive on the geological storage of carbon dioxide has been adopted by Council in first reading. From 2010, the Commission will report regularly on latest developments in the deployment of CCS technologies within its activities related to running the network of CCS demonstration projects. This reporting will include information on the progress on the CCS demo plants deployment, progress of CCS technologies development, cost estimates and the development of CO₂ transport and storage infrastructure.

The Directive can be found here:

<http://register.consilium.europa.eu/pdf/en/08/st03/st03739-re03.en08.pdf>

EU EMISSIONS TRADING SCHEME



Potential reorganisation of future commission on energy & climate change

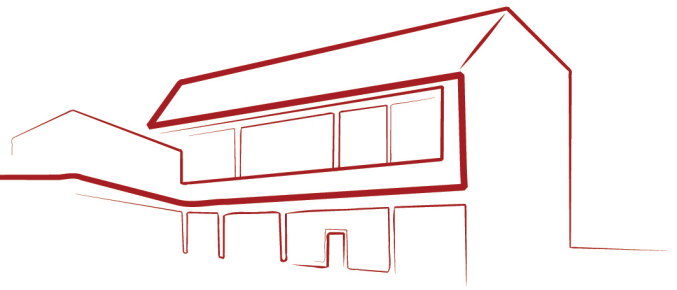
An internal Task Force of the European Commission is looking at the organisation of the future Commission to be appointed next year. Within this context, the possibility of separating DG Transport & Energy is envisaged. More significantly for CEMBUREAU, is the potential expansion of DG Energy to cover climate change. The Commission has long wanted to separate energy from transport, but the inclusion of certain elements of climate policy - especially EU ETS - in the new Directorate General is more controversial. The EU ETS is currently under the control of DG Environment. A final decision on the new department's responsibilities will most likely be made later this year.

ENVIRONMENT

Adaptation to climate change: white paper published

The European Commission published a White Paper on Adaptation to Climate Change on 1 April. This paper outlines actions needed to strengthen the EU's resilience in coping with a changing climate, and gives the EU's position on climate change ahead of the UN Climate Change Conference in Copenhagen. Water management is considered as one of the priority areas. Protecting existing and future infrastructure from the impact of Climate Change will be predominantly a Member State responsibility. The EU will, nevertheless, play an important role in promoting best practice, via support for infrastructure development and also in developing standards for construction such as Eurocodes. Action will be taken to develop methodologies for climate-proofing infrastructure projects and consider how these could be integrated into the TEN-T (Trans-European Transport Network) guidelines on investment under the Cohesion policy; explore the possibility of making climate impact assessment a condition for public and private investment and assess the possibility of incorporating climate impacts into construction standards, such as the Eurocodes. The Commission also wants to develop vulnerability indicators for a number of economic sectors by 2011 and also wants to establish by then an EU-wide information exchange platform to help stakeholders adapt successfully to climate change.

A first phase of the strategy will run until 2012 and will lay the groundwork for preparing a comprehensive EU adaptation strategy from 2013 and beyond. It will focus on increasing understanding of climate change and possible adaptation measures and how adaptation can be embedded in key EU policies. The Commission also plans to set up an Impact and Adaptation Steering Group (IASG), which will be composed of representatives from EU Member States involved in the drawing up of national and regional adaptation programmes. This will be supported by technical working groups, which will be involved in the development of further Eurocodes.



The White Paper can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0039:FIN:EN:PDF>

ENVIRONMENT

Environment Ministers issues adapting to climate change

European Union Environment Ministers urged the leaders of other developed countries to match the EU's ambitious emissions reduction goals in an informal meeting in Prague, Czech Republic earlier this month. The ministers emphasised that the EU remains the only region in the world to have adopted ambitious targets on climate change. A Presidency Discussion Paper entitled 'The European Union is adapting to climate change' is available through this link:

<http://www.eu2009.cz/en/news-and-documents/news/environment-ministers-start-informal-meeting-with-discussion-on-adaptation-16737/>

ENVIRONMENT

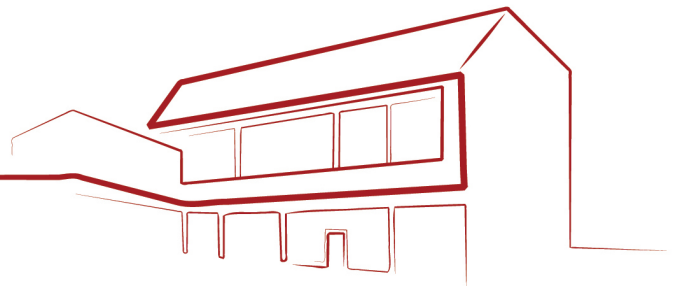
Sweden prepares for Copenhagen climate talks

Swedish Environment Minister Andreas Carlgren met with EU Environment Commissioner Stavros Dimas earlier this month to discuss how Europe should approach the climate talks in Copenhagen in December. Sweden assumes the EU presidency from the Czech Republic on 1 July 2009. Europe's position ahead of the Copenhagen meeting is likely to be fleshed out at an EU Council meeting in late October.

ENVIRONMENT

Eco-design Directive revision adopted in Parliament

The Proposal for a Directive establishing a framework for the setting of eco-design requirements for energy related products was voted on 24 April 2009 in the European Parliament. The Proposal was adopted in first reading by 394 votes in favour to 13 against. Compromise amendment 24, which reflects the compromise reached between the European Parliament and the Council, was carried. The compromise widens the scope to all energy related products which have an impact on energy consumption during use. It aims to ensure that energy and resource efficiency are measured throughout the whole life cycle of the product. Rapporteur Magor Imre Csibi (Group of the Alliance of Liberals and Democrats for Europe, Romania) suggested that, when reviewed in



2012, the proposed Directive should be extended to all products. The Commission indicated it will examine the question, but gave no guarantees that this would happen. The compromise also gives priority to voluntary agreements or self regulation measures and limits public action. Buildings and construction products remain within the scope, but the list of priority groups will be specified through implementing measures. To that purpose the European Commission must establish a working plan by 21 October 2011 setting out, for the following 3 years, the list of priority product groups for the adoption of implementing measures. The European Commission must carry out appropriate consultation with stakeholders including industry (consultation forum). The Directive will not be for products covered by other legislation that can achieve the same objectives.

Final adoption is expected by the Energy Council on 11 June 2009.

ENVIRONMENT

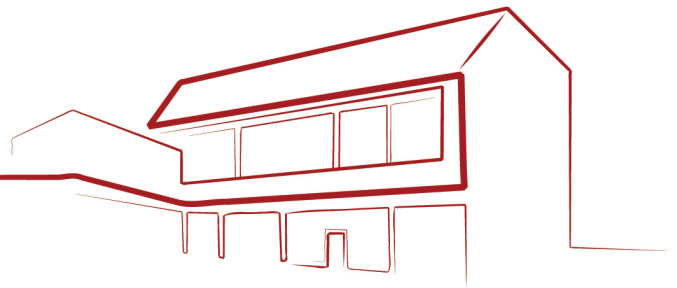
IEF adopts cement & lime BREF

The Information and Exchange Forum (IEF), chaired by the European Commission under the EU's IPPC Industrial Pollution Directive, has adopted the Cement & Lime BREF (Best Available Technique Reference Document). CEMBUREAU is satisfied with the outcome, in particular on energy efficiency requirements and NOx BATAELS (Best Available Technique Associated Emission Levels).

BUILDINGS & BUILDING MATERIALS

Rapporteur pushes for earlier plenary vote on energy efficiency of buildings

The European Parliament has adopted Silvia-Adriana Ticau's (Party of European Socialists, Romania) Report on a Proposal for a Directive on the Energy Efficiency of Buildings by 549 votes in favour to 51 against. The vote, originally scheduled for May, was moved forward to April. The Parliament expressed its desire for public authorities to set an example and implement recommendations that would be included in a common EU certificate for the energy performance of buildings. MEPs also want Member States to include measures in their national plans to encourage public authorities to adopt energy efficiency improvements as soon as possible. The strengthened provisions of the EP first reading legislative resolution requires all new buildings to become net zero energy by December 2018 at the latest. Major renovation of existing buildings will also need to meet this new requirement and Member States shall fix intermediate national targets for existing and new public buildings.



CEMBUREAU welcomes the setting up by 2014 of fiscal incentives for energy efficient buildings and supports the EU wide common calculation methodology for the cost optimal level of energy efficiency of the whole building based on existing harmonised standards. It also welcomes the priority given to strategies enhancing the thermal performance of buildings during the summer period through the development of passive cooling techniques and the deletion of the 1000 m² threshold regarding renovation.

CEMBUREAU strongly opposes the widening of the scope of the EPBD to building components by setting minimum energy requirements.

The Working party on Energy of the Council will examine the Parliament's first reading legislative resolution on 5 May 2009. A second reading is optimistically expected to be completed by the end of 2009.

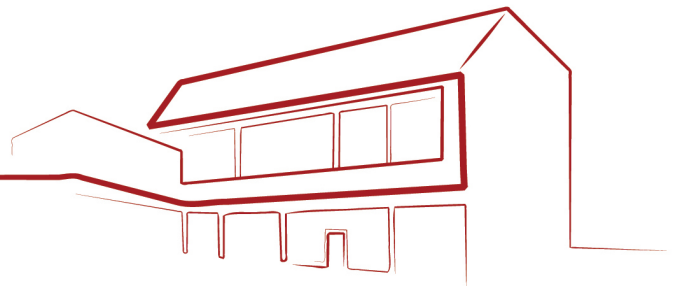
BUILDINGS & BUILDING MATERIALS

Energy efficiency buildings PPP launched

A €1 billion initiative to encourage environmental innovation in the construction sector was launched this month following a meeting between EU Science and Research Commissioner Janez Potočnik and representatives of the construction sector. A joint statement affirming an agreement to move ahead with a public private partnership (PPP) for Energy efficient Buildings (EeB) was made, which aims to benefit the construction sector at large. The industry accounts for more than 10% of the EU's GDP and employs 32 million people. Of the 2.7 million construction enterprises in the EU, 95% are SMEs.

The PPP Energy efficient Buildings (EeB) will promote green technologies and the development of energy efficient systems and materials in new and renovated buildings. This is significant as the energy consumption of houses and buildings, taking into account the whole life cycle, is responsible for 40% of total EU energy consumption and is the main contributor to greenhouse gas (GHG) emissions. Reducing energy consumption during the whole life-cycle of the buildings is therefore seen as an effective action against climate change and will also contribute to decreasing the EU's energy import dependence.

The PPP EeB will achieve this by encouraging research on key technologies and a construction industry focus on energy-efficient processes, products and services. The idea is to transform the challenge of achieving a 20% reduction in energy consumption by 2020 into a business opportunity. Specific attention will be given to the development and integration of design and simulation tools, new materials and building systems that aim to achieve energy efficiency. The Commission should launch cross-thematic calls for research proposals from the FP7 thematic



areas Nanotechnologies, Materials and Production technologies, Environment, Energy and ICT in July 2009 with deadlines at the turn of the year. This should allow the first projects under the PPP to start in spring of 2010.

The programme will be financed jointly by industry and the European Commission under the Seventh Framework Programme for Research (FP7).

BUILDINGS & BUILDING MATERIALS

Construction products proposal adopted in Parliament

The European Parliament has adopted, in first reading, Catherine Neris' (Party of the European Socialists, France) Report on the proposed replacement of the Construction Products Directive 89/106/EEC by a Regulation. The Report was adopted by 390 in favour to 4 against. Amendments adopted include measures to enhance protection of the environment and the use of Environmental Product Declarations (EPD) for the impact assessment of construction works. MEPs also want the Commission to increase the range of products covered by harmonised standards. This issue is likely to be pursued under the new Parliament, with the possibility of a second reading at the end of 2009.

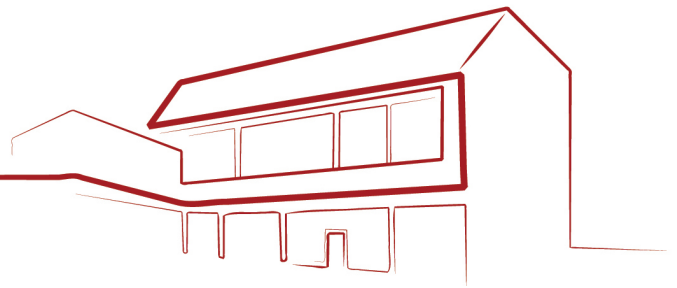
The vote is in line with the expectations of the cement industry and the positions it has adopted, i.e that all products covered by a harmonised technical specification (a harmonised standard or a European Technical Assessment) should bear the CE marking in order to keep that marking credible. Nevertheless, there are two amendments that CEMBUREAU does not support, namely that European standardisation bodies shall ensure that no category of actors in any one sector comprising more than 25% of the participants in a technical committee or working group (this would be difficult to apply), and that hazardous substances will be declared in the declaration of performance (REACH has already entered into force and there is no need for additional rules).

A second reading in the European Parliament will take place after the next elections.

WASTE

Establishment of European waste agency discussed

A stakeholder workshop involving Member States, industry and other stakeholders on European Commission plans to strengthen the implementation of European waste legislation was held in Brussels earlier this month. The workshop follows the launch of a Commission feasibility study, which will weigh up the benefits and costs of creating a dedicated agency to support the implementation of European waste legislation. The consultants carrying out the study sent a



questionnaire to the Member States and other stakeholders to collect their ideas on the feasibility of a Waste Implementing Agency. The April workshop was the first of two proposed workshops; the second will be held in September 2009, while the feasibility study is due to be completed by October 2009.

At the April workshop, Member States were not particularly supportive of creating a new European Agency, due partly to the fact that there are already national waste agencies in many countries. The focus, they argued, should be on better implementation of waste legislation, including more a uniform interpretation of EU waste legislation. This point was also raised by industry sectors present. Industry also saw the need for better inspections, in particular for shipments of waste leaving the EU.

The workshop also discovered that many organisations present, including CEMBUREAU, had not been consulted. The Commission therefore accepted that late responses from these stakeholders could be collected through a questionnaire.

HEALTH AND SAFETY

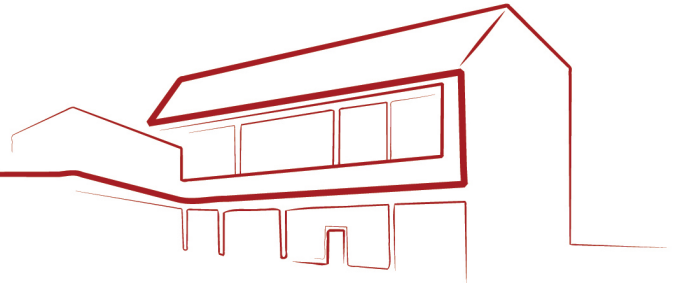
Updated REACH list of pre-registered substances published

The European Chemicals Agency (ECHA) has published an updated version of the list of pre-registered substances on its website. The list contains around 143,000 substances which were pre-registered by 65,000 companies between 1 June and 1 December 2008. ECHA does not expect all of these substances to be registered. The new list contains a number of improvements, including a better search function and the inclusion of list numbers (in the format of EC numbers) for those substances without a current EC number to make registration easier.

The list's publication triggers the next phase of the REACH process, in which firms making or importing the same chemical will share data in substance information exchange fora (SIEFs). SIEFs will coordinate many aspects of the full Registration process, which will take several years. The list of pre-registered substances can be accessed from the ECHA website:

<http://apps.echa.europa.eu/preregistered/pre-registered-sub.aspx>

HEALTH AND SAFETY



Council publishes draft conclusions on sustainable industry

Draft Council conclusions on an integrated approach to a competitive and sustainable industrial policy were adopted in April. The Draft Resolution calls on the European Commission to monitor the implementation of the REACH chemicals policy and assess its impact on businesses, especially on small and medium enterprises (SMEs). The Council would like the Commission to report on the implementation of REACH by the end of 2010. The Draft Conclusions also discuss how reducing the EU's reliance on fossil fuels and raw materials should be a guiding principle for European business in the coming years. The Council Conclusions are likely to be adopted in May 2009.

The Draft Council conclusions can be found here:

<http://register.consilium.europa.eu/pdf/en/09/st08/st08235.en09.pdf>

HEALTH AND SAFETY

Commission statement on CO₂ and revised Seveso Directive

The Commission has issued a statement on whether carbon dioxide should be a named substance with suitable thresholds in a revision of Council Directive 96/82/EC (Seveso Directive). CO₂ is currently not classified as dangerous, and CO₂ transport and storage sites are therefore not included in the control of major-accident hazards involving dangerous substances. The case for considering CO₂ as a named substance under the Seveso-Directive will, however, be considered in more detail during the development of the proposed revision of the Directive, scheduled for late 2009 / early 2010. The Commission could then include CO₂ as a named substance with suitable thresholds in the revised Seveso-Directive. The Commission would then also propose changes to Annex III to Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage (Environmental Liability Directive) to ensure that all Seveso installations handling supercritical CO₂ are covered under the Environmental Liability Directive.

CEMBUREAU

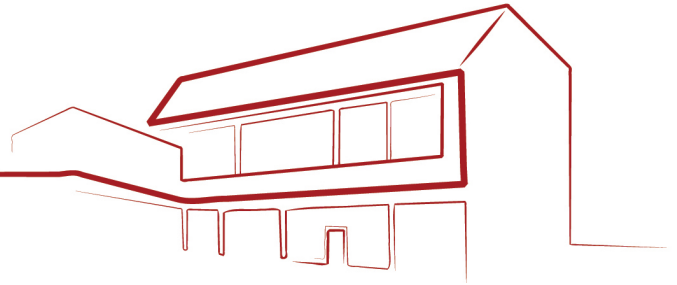
CEMBUREAU

Rue d'Arlon 55

BE-1040 Brussels

Tel: +32 2 234 10 11

Fax: +32 2 230 47 20



CEMBUREAU participation in NOx-SO2 stakeholder consultation

On 3 April, CEMBUREAU participated in DG Environment's first stakeholder consultation on a study carried out by ENTEC on the implementation of an EU-wide NOx-SO2 trading scheme. Many questions were raised by industry, Member States and NGOs during the exchange of views. For CEMBUREAU, the proposed introduction of a trading scheme is unnecessary and duplicative given the current regulatory framework. It will not improve the environmental performance of installations but will entail a financial burden and commercial disadvantage for EU industry. Moreover, industry is only partly responsible for NOx and SO2 emissions as there are many other sources. All stakeholders confirmed their opposition to the development of such a scheme.

ENTEC has requested further written contributions from industry on "outstanding" IPPC installation emissions data, cost data for beyond BAU measures and opinions and comments on options for emissions trading scenarios to be considered in the study. CEMBUREAU is preparing such a contribution and remains confident that the proposal can be avoided (see March Eurobrief).

OTHER NEWS

Working time Directive: conciliation fails

For the first time since the entry into force of the Amsterdam Treaty on 1 May 1999, no agreement could be reached at the conciliation stage of a piece of legislation. Parliament and Council failed to find a compromise on three points of the Working Time Directive: the opt-out, on-call time and multiple contracts.

Since there is no agreement, the current directive, dating from 1993, remains in force, though the Commission can draft a new proposal from scratch. Such new legislation would need to take into account the rulings of the European Court of Justice on on-call time. (See *Eurobriefs* 162, 159, 151, 143, 141, 137, 135, 130, 128 & 116).