

## EURACOAL Response to Inception Impact Assessment

EU Action Plan “Towards a Zero Pollution Ambition for air, water and soil  
– building a Healthier Planet for Healthier People”  
(Ares(2020)5152184 – 01/10/2020)

### **Background**

In July 2019, the President of the European Commission, Ursula von der Leyen, announced her political guidelines for the next European Commission to 2024, including a “move towards a zero-pollution ambition”. This was further elaborated in the European Green Deal communication in December 2019 (COM(2019) 640). Since then, the European Commissioner for Environment, Oceans and Fisheries, Virginijus Sinkevičius, has stated, “We need to mainstream our Zero Pollution Ambition into all EU policies”. The Commission cites over 400 000 premature deaths every year in the EU due to air pollution – so exceeding Covid-19 related deaths – and 6.5 million cases of chronic sleep disturbance due to noise pollution. It adds that pollution contributes largely to the current 6<sup>th</sup> species extinction, and leads to reduced agricultural yields, high remediation costs and loss of ecosystem services.

A new communication – a Zero Pollution Action Plan – is anticipated in 2021 to further protect air, water and soil from pollution, including pollution from consumer products. It will aim to promote a more sustainable “re-launch of the EU economy, creating job opportunities and reducing social inequalities”. While the Commission acknowledges that there are gaps in the implementation and enforcement of existing legislation, it points to new sources of pollution such as pharmaceutical residues, persistent and toxic chemicals, pesticides and micro-plastics. Consideration will therefore be given to improving the existing health and environment *acquis*, including the Industrial Emissions Directive (IED), the Water Framework Directive (WFD) and soil protection, alongside better governance structures and “societal change”. The Commission states that its proposed Zero Pollution Action Plan does not require an impact assessment *per se*, given the already “significant evidence base”.

### **Summary response**

EURACOAL welcomes the aim of more effective pollution control policies. We support the UN Sustainable Development Goals and the aim of creating a cleaner environment in the EU. Current legislation already sets high standards and contributes to a cleaner planet for all. Future progress will be guided by the 8<sup>th</sup> Environmental Action Programme for the period up to 2030 which the Commission has published in draft. **Hence, a zero-pollution action plan is not needed.** The costs of reaching zero would tend towards infinite and a disaggregation would be needed between “natural” pollution (*e.g.* SO<sub>2</sub> from Mount Etna) and “man-made” pollution. A risk-based approach would recognise the concentrations at which substances are safe, posing no risk to health or the environment. In the case of soil, there is no justification for an EU-wide approach as there are no transboundary impacts. Nevertheless, we agree that shortcomings remain elsewhere, especially with implementation and enforcement of existing legislation, notably the Water Framework Directive.

## ***Environmental performance***

The EU coal industry is subject to strict European pollution control legislation, and has successfully implemented this to meet some of the world's highest standards. The coal sector has invested heavily in pollution control technologies and achieved impressive results – for example, sulphur dioxide (SO<sub>2</sub>) and oxides of nitrogen (NO<sub>x</sub>) emissions from coal use in the EU have fallen by between 60% and 90% since 1990. Given the large investments already made in pollution control and the current financial pressures resulting from high allowance prices under the EU Emissions Trading System (ETS), we warn against adding more burdens. During what is now a transition period to cleaner sources of energy, coal will still be needed in Europe to meet electricity demand and guarantee baseload power supply. Adding new burdens on existing coal power plants, many of which are moving towards the end of their commercial operating lives, would shift investment away from long-term needs, such as renewable energy sources and CCS technologies.

In respect of the circular economy, the coal sector already embraces this concept in many ways: bottom ash is used in block making for the construction industry, fly ash is used for cement production, and gypsum from flue gas desulphurisation is used to manufacture wall board. These are driven by economic factors, demonstrating that current pollution control legislation gives good incentives for circular-economy solutions.

## ***EURACOAL recommendations***

We encourage the European Commission to focus on identifying gaps in the implementation of existing pollution legislation, instead of introducing any new requirements. In many areas, significant gaps exist, and effort should be focused on analysing the reasons for these. Sometimes, current legislation lacks clarity; solutions should be found that benefit the environment as well as industry by creating the legal and planning certainty needed for stable investment. The regular reviews of EU environmental legislation are not conducive to long-term investment. For example, the Industrial Emissions Directive is reviewed by the Commission every three years, with the possibility of legislative amendment; in addition, the related BAT reference documents are updated at least every eight years.

### ***1. Water Framework Directive***

EURACOAL is in favour of revisiting certain aspects of the Water Framework Directive. This directive has improved water quality throughout Europe. However, the current interpretation by the Court of Justice of the European Union, in particular the “one-out-all-out principle”, poses major difficulties for industry. Moreover, it is already clear that the aim of “good status” for European waters will not be universally reached by 2027. A revision of the directive should lead to the legal and planning certainty needed for future investment, without compromising on the long-term aim of having clean water in Europe's rivers and lakes.

### ***2. Industrial Emissions Directive***

The Industrial Emissions Directive on the other hand appears fit for purpose. It has led to improved environmental standards and established a level playing field for EU industry. We also support the “best available techniques” (BAT) principle, but call for a better procedure for determining and revising BATs. In the case of greenhouse gases (GHG), these are separately controlled under the EU ETS Directive. There should be no duplicate regulation of GHG emissions from industrial installations already covered by the ETS.

### **3. Seveso III Directive**

No revision of the Seveso III Directive is required as this legislation already directs members states to create the regulatory conditions to prevent industrial accidents.

### **4. Air Quality Directives**

Revision of European air quality directives is also not necessary. In its recently published report on the review of these directives (SWD(2019) 427), the Commission concludes that the current legislation provides the necessary instruments to meet existing challenges. The directives have been effective in improving air quality and achieving air quality standards. In 2016, the revised National Emissions Ceilings Directive set ambitious new mass limits for five pollutants that must be met by 2030. Member states have only just implemented this directive through national programmes that pose a major challenge for industry. If air quality standards have not yet been fully achieved, this is essentially due to a lack of implementation or poor application of European law in the member states, and not due to any weaknesses in the European legislation itself.

### **5. Soil protection**

Proposals to introduce an EU soil protection framework directive have not proceeded because soil management has no cross-border impacts. Member states recognise that the subsidiarity principle defined in Article 5 of the Treaty means that they alone are responsible for soil protection: member states have measures in place that appropriately reflect the widely different soil types found across the EU. Thus, there is no need to introduce an EU legal framework for soil.

### **6. Public engagement**

Finally, the main driver for anti-pollution efforts should be EU citizens. We would thus support the Commission's proposed use of digital solutions in a way that empowers consumers to make sustainable choices. However, empowerment should not be interpreted as granting NGOs or others any extended rights to challenge legal activities, especially those carried out under existing permits.

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