

Communication to the Aarhus Convention Compliance Committee concerning compliance by Spain with the provisions of the Convention on public participation in connection with the updating of environmental permits (ACCC/C/2014/122)

Regarding the questions received from the Compliance Committee of the Aarhus Convention to the parties concerned, Spain would like to inform about the correlation between the transitional provision of the Spanish IPPC Law and the relevant articles of the Industrial Emissions Directive, namely:

Paragraph 2 of the First Transitional Disposition of the Legislative Royal Decree 1/2016 (courtesy English translation)	Industrial Emissions Directive
2. According to paragraph 1, permits shall be considered updated when they contain specific prescriptions on:	<p><u>Specific provision of the IED transposed:</u> article 82.1 “Transitional Provisions”</p> <p><u>Comment:</u> as we already stated during the hearing celebrated the 14th of December 2017 in Geneva, the first transitional provision of the Legislative Royal Decree 1/2016 was created with the aim of updating¹ the permits of existing installations, already granted under IPPC Directive 96/61. Due to the existence of not fully harmonized requirements in these permits for existing installations at the regional level we considered necessary to establish this provision in order to provide the competent authorities with a common minimum content these permits should have in order for them to comply with the IED before January 2014; the requirements mentioned in the Spanish transitional provision represent basically the changes brought by the IED in relation to the obligations of the operators and the content of the IPPC permits (articles 7, 11, 14, 22...), and in their consideration the principles of simplification of administrative burdens and harmonization of existing national legislation were taking into account.</p>

¹ Notice that the updating of the permits referred to in the Spanish transitional provision is related to the installations included in the transitional provision of IED (article 82.1); accordingly, this updating does not correspond to the figures foreseen in article 21 of IED (reconsideration and updating), which in the Spanish legislation has been transposed by means of the article 26 (review and adaptation of permits) of RDL 1/2016.

	It is crucial to clarify that the Spanish first transitional provision did not modify any technical condition of the permit already established , as for instance the emission limit values (ELVs), nor any monitoring requirements or conditions for the minimisation of long distance or transboundary pollution.
a. Incidents and accidents, especially regarding the obligations operators have of communicating them to the competent authority and of implementing measures, even complementary ones, to limit environmental consequences and avoid other possible incidents and accidents;	<u>Specific provision of the IED</u> : article 7 “Incidents and accidents”
b. The failure to comply with permit conditions;	<u>Specific provision of the IED</u> : article 8 “Non compliance”
c. In case of waste generation, the implementation of the waste hierarchy as established in article 4.1.b);	<u>Specific provision of the IED</u> : Article 11.1 e) "General principles governing the basic obligations of the operator"
d. When necessary, the report mentioned in article 12.1.f), which must be taken into consideration in the event of plant closure;	<u>Specific provision of the IED</u> : Article 11.1 h) and article 22, "General principles governing the basic obligations of the operator" and “Site closure”
e. The measures which will be applied in the event of anomalous functioning conditions;	<u>Specific provision of the IED</u> : Article 14.1 f) “Permit conditions”
f. When necessary, the monitoring requirements for soil and groundwater;	<u>Specific provision of the IED</u> : Article 14.1 b) and e) “Permit conditions”
g. In the case of incineration or co-incineration plant: i. Waste treated by the plant, when listed in the European Waste List ii. The emission limit values regulated for these types of plants.	<u>Specific provision of the IED</u> : article 45.1 a) “Permit conditions”

