

Carbon Market Watch's response to the inception impact assessment on Industrial Emissions Directive revision

Carbon Market Watch fully supports the comprehensive feedback provided by the European Environmental Bureau to the inception impact assessment and welcomes the opportunity to give specific views on how the Industrial Emissions Directive (IED) should be revised to support industrial decarbonisation in a complementary manner to the EU Emission Trading System.

While we support the general direction of the evaluation, we would like to highlight the need to make the Industrial Emissions Directive fit for the zero-pollution and climate neutrality objectives as outlined in the Green Deal. This entails including greenhouse gas emissions within the scope of this directive by deleting art. 9(1), and amending art. 9(2).

Industrial Emissions Directive (IED) and Emission Trading System (ETS)

Scope and competence

The Industrial Emissions Directive (IED) regulates around 50,000 large industrial installations in Europe, and is the only legislative tool based on performance-based standards, which are periodically reviewed to take into account innovation and progress.

The IED is supposed to take an integrated approach on pollution prevention (over control) from industrial activities. This means that all relevant environmental impacts should be taken into consideration: emissions to various environmental media, the use of resources such as water, energy, material or chemicals, waste prevention and general production efficiency, accidents prevention, etc.. This integrated approach is meant to achieve a high level of environmental protection as a whole.

However, while protecting the environment, the IED does not address greenhouse gas pollution and climate impacts directly, which is a major shortcoming in the current legislation.

Indeed, the regulation of Greenhouse Gas (GHG) emissions is left to the EU Emission Trading System (ETS) Directive. However, with more than 90% of industrial greenhouse gas emissions covered by free ETS emissions allowances, this Directive provides virtually no incentive to energy-intensive industries to decarbonise. This is supported by the observation that industrial (non-power sector) GHG emissions under the EU ETS have been stagnating since 2012.

The aim of the EU ETS legislation was to develop GHG emission benchmarks in order to strengthen the incentives for decarbonisation and innovation and reward the most efficient installations. However, the stagnating emissions from industrial installations make it clear that these benchmarks, and the associated allocation of free allowances, provide virtually no incentives to industries to reduce their emissions. This situation is aggravated by the fact that the issuance of free emissions allowances has

lead to significant windfall profits in the covered industrial sectors, amounting to over €25 billion during the 2008-2015 period¹.

Moreover, while many Best Available Techniques (BAT) Conclusions under the IED contain performance-based energy efficiency standards, the EU ETS restricts Member States (environmental permit writers) ability to set GHG emission limits or leaves it optional to set binding energy efficiency performance-based standards as a complementary measure to the market-based approach, when those installations are covered by the EU-ETS scheme. This limitation is counter-productive and incompatible to the integrated approach of the IED to prevent (all) pollution at source.

The problem

The prohibition in Art. 9(1) of the IED on including limits on GHG emissions in IED operating permits is unhelpful, and it unnecessarily restricts the options available to member states with respect to undertaking measures that promote GHG emission reductions of industrial installations.

As shown by several examples, there is a strong correlation between GHG emission reduction and stricter air pollution, fuel or efficiency standards for industrial activities. The main reason is that combustion of fuels generates air pollution that is intrinsically related to the chemical fuel properties.

Forcing stricter performance-based standards for greenhouse gas pollution and energy efficiency not only leads to incremental improvements for wider air pollution but also benefits resource consumption aspects as well as climate protection.

The provision in Art. 9(2), leaving the energy efficiency performance or fuel choice requirements “optional”, is counter-productive to the IED and ETS goals, since in general these measures are not applied by Member States. This is inconsistent with the IED objectives and BAT criteria to use energy and other resources efficiently. Energy efficiency is generally a multi-pollutant mitigation technique and therefore should be implemented as matter of priority in the interest of the operator as well as of the environment.

This means that there is already significant energy saving potential in industrial and power sectors that is available with current technologies but, neither the standards set by the IED, nor the carbon price signal delivered by the ETS is adequate to grasp this potential.

Policy recommendations

If the Industrial Emissions Directive (IED) is to be made fit for the future, it will need to work hand in hand with other policy instruments and will need to reinforce the market-based approach under the EU-ETS.

Including greenhouse gas emissions within the scope of the IED does not entail duplication of regulation vis-a-vis the ETS Directive, as stated in IED recitals 9, because both frameworks are complementary and follow different approaches, and the EU ETS has not lead to any meaningful industrial greenhouse gas reductions for almost a decade. In addition, the EU ETS sets a price level on carbon allowances which is

¹ <https://carbonmarketwatch.org/publications/mythbuster-reload/>

not based on the Best Available Technology (BAT) concept so the IED Best available techniques Reference documents (BREFs) would be reinforcing and complementary regulation, not overlapping.

Therefore, in the next revision of the Industrial Emissions Directive, we call for:

- Deletion of IED Art. 9.1 in order to enable a combined approach of command and control (IED) as well as market-based instruments (EU ETS);
- Amend Article 9.2 of the IED to introduce minimal binding (and not optional) energy efficiency standards based on best in class solutions within a given industrial activity (e.g. electricity, heat generation, steel, cement);
- Introduction of GHG performance standards to achieve a complete coal and lignite phase-out in the European power and industrial sectors by 2030, and industrial decarbonisation in line with achieving climate neutrality by 2040;
- Introduce a Paris Agreement compliance test for new industrial investments and major refurbishments in environmental permitting. This measure would avoid a lock-in of investments into high emitting infrastructure.

Contact:

Agnese Ruggiero - Policy Officer

agnese.ruggiero@carbonmarketwatch.org