



Industrial Emissions Directive

Carbon Market Watch's feedback to the European Commission's consultation on "Industrial Emissions - EU rules updated"

23 June 2022

The revision of the Industrial Emissions Directive (IED) represents a huge opportunity to strengthen the Directive to ensure it fulfills the objectives of the European Green Deal and effectively addresses the negative impact of industrial emissions on the environment and the climate.

The revision is also a crucial chance to better integrate and align this directive with other key climate policies, especially the EU Emissions Trading System (ETS) with the objective of ensuring synergies and consistency between EU legislation, and triggering the necessary reduction in industrial greenhouse gas emissions.

As reported by the consultancy supporting the European Commission in the revision of the IED (Ricardo), "the IED's design and implementation to date have not prioritised greenhouse gas emissions (GHG) and, as a result, the IED has not been as effective as it could be in contributing to reducing GHGs". However, despite acknowledging the issue and presenting several solutions, the European Commission's proposal only partially addresses it.

The proposal for the revision of the IED deletes art.9.2, which in the current legislation leaves optional to member states the decision to impose binding energy efficiency requirements to installations covered by the EU ETS.

However, the proposal fails to meaningfully address greenhouse gas emissions by not deleting Art. 9.1. This maintains the exclusion of GHGs from installations covered in the EU ETS from the scope of the IED. The Commission recognises the need to better integrate the EU ETS' market-based system and the IED's command and control approach but delays its implementation to the next revision of the IED in 2028. This option of 'including a review clause of the interface between the IED and the ETS' brings no beneficial impact on the climate or the environment, as discussed in [Annex 8](#) of the impact assessment. The reason provided for discarding this option is also questionable. The Commission claims that an introduction of binding emission limits for ETS sectors may negatively affect effectiveness and efficiency of the ETS market mechanism. It could lead to more carbon allowances becoming available for trading, ultimately reducing carbon market-based incentives for emissions reductions across ETS sectors. This argument does not hold in face of recent revisions of the EU ETS directive. The EU ETS already has clear and effective mechanisms to reduce market oversupply which will fully prevent the impact of overlapping policies on market balance and its effectiveness. By



mandating emission limits in fact, fewer emissions would be generated overall and unused allowances will be absorbed by the ETS Market Stability Reserve (Decision (EU) 2015/1814) and subsequently invalidated when they reach a certain amount. A combination of a strong ETS and the IED will trigger faster emission reductions and greater incentives for industrial decarbonisation. The urgency of the climate crisis warrants much faster action while with the chosen option the Commission is kicking the can down the road. In addition, leaving the option to future a policymaking initiative undermines the required investment certainty and stable regulatory framework for business and industry.

Because of this unnecessary firewall between the two directives, so far EU governments have not set limits on greenhouse gas emissions when issuing environmental permits under the IED. These limitations are counter-productive and provide little incentive to industries to invest in more environmentally friendly processes and reduce their greenhouse gas emissions. In light of the urgent need to tackle the climate crisis, this oversight and shortcoming need to be corrected.

Finally, the proposal includes a new provision that also partly responds to the need to incentivise industrial decarbonisation but fails to effectively address it. This is the introduction of transformation plans (TP) that operators should compile by June 2030 and become mandatory elements of the Environment Management Systems (EMS).

However, the current proposal on the TP has the following shortcomings that need to be addressed:

- For some of the installations, establishing a TP will be dependent on the review of permit conditions, following the publication of BAT conclusions after 1 January 2030, meaning a potential inclusion of TP in the EMS by 2034. This is too late for the transformations needed, and which will provide economy-wide solutions, to meet several EU objectives set for 2030. Furthermore, should the transformation plans describe the way an installation will transform during the period 2030-2050, as stated in the Commission proposal, **all TPs should be ready and assessed before 2030, ideally by 2025.**
- The scope of the TP as described in the Commission proposal - "*The transformation plan shall contain information on how the installation will transform itself during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050*" is vague and does not allow the laying down of clear transformation milestones for industry. **It is important that the main directive provides a minimum of details on the requirements laid down in the TPs, which can then be expanded upon in the implementing legislation. Crucial details such as ambition, nature and scope of the transition plan cannot be left at the discretion of the operators. Clear milestones and indicators should be set, and the TPs should require specific actions and monitoring. Moreover, a proper format for**

reviewing the plans and a formal authority to check their content should be set up to ensure quality, compliance and updateness of the plans.

- Enforcement and legal value of those plans might be too limited to commit industry to a clear and measurable transition pathway. Not only because of the vagueness of their overall objective, but also in the light of their non-binding regime. Audits carried out on EMS should not only be limited to checking that TPs are respecting the format decided by the Commission but should also assess whether the quality of the data contained in the TPs is sufficient for industry's contribution to at least the EU climate neutrality goal. **Once the TPs are approved, measures described for the transformation of the installation can be reflected in the permits, with a view to making TPs binding and committing industry into following the established transformation pathway.** This would consequently allow authorities to assess that industries are remaining on track of their transformation and would make a clear difference between the existing self-established carbon-neutrality announcements of certain heavy industries and the binding and enforceable TPs allowing industry to actually deliver on EU climate, circular economy and zero pollution targets.

Carbon Market Watch's recommendations to improve the Commission proposal

- 1. Delete art. 9.1**
 - The inclusion of greenhouse gas emissions within the scope of the IED does not entail duplication of regulation vis-a-vis the EU carbon market rules because both frameworks are complementary and follow different approaches. In addition, unlike the IED, the carbon market does not use the "best available technology" concept, so the IED's best available techniques reference documents (BREFs) would be reinforcing and complementary regulation, not overlapping. Moreover, as shown in the Commission's [impact assessment](#), this option is the one that has the potential to benefit the climate the most while having a neutral impact on social aspects and employment.
- 2. Keep the deletion of Art. 9.2**
 - Making energy efficient requirements mandatory and not at the discretion of member states is a crucial step to ensuring that all industrial installations comply with at least minimum standards and the energy efficiency first principle. This is paramount for the reduction of energy consumption and emissions, while delivering energy security. It should therefore be maintained.
- 3. Require strong, clear and detailed transformation plans in addition to setting binding emission standards on energy-intensive industries, including ETS sectors**



- Introducing transformation plans (TP) established by operators as a mandatory part of their Environmental Management System (EMS) has significant potential to drive industrial transformation forward. However, the scope and requirements of these plans need to be further clarified and strengthened in order for them to deliver the necessary improvements.

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