**IED Revision (v.1)**

|  |  |  |
| --- | --- | --- |
| What we said (principles) | Commission's considerations | What we are suggesting (in practice) |
| Maintaining the core principles of the Directive: BAT, Sevilla process, Fexibility, Integrated approach | The IED is not as effective as it could be in terms of ensuring reduced pollutant emissions from industry. | * **BAT is defined in Art. 3 and needs to stay unchanged.** "B" goes for "BEST" for the environment - as a whole (which is still very relevant if GHG is added and for innovation to be fostered). "A" goes for "AVAILABLE techniques" considering economical and technical conditions (if pilot projects were used, they would not be supported with robust data, they may be not technically achievable in some locations and the assessment of the whole environmental performance, incl. 10 heading exams, may not be possible). There should be no attempt in making the IED similar to the Taxonomy, because the two function differently: the Taxonomy (with CapEx and OpEx disclosure) aims at channelling investments towards an ambitious level; the IED sets a framework for plants to work (via permits). "T" goes for TECHNIQUES used in the design, building, maintenance, operation and decommissioning of an installation.
* **Sevilla process is defined in Art. 13 and needs to be maintained.** It is a data-based process which allows all relevant experts (national authorities, NGOs, industry) to develop recommendations on BAT-AELs. Installations often need to consider more than one BREF - hence, installations always need to operate in the most sustainable way. To avoid the pace of the Sevilla process to slow down, one should avoid adding parameters and sectors in the revised IED's scope (more below).
* **The integrated approach is defined in Art. 1 and needs to stay untouched.** It means that a permit needs to consider the whole environmental performance of a plant (from raw material use to emissions to air, water, land). More specific environmental objectives (e.g. fight against climate change or energy efficiency) are better framed and supported by other legislations (e.g. ETS, RED). To follow the IED logic, it should also be stressed that one should not optimise on climate without seeing the full picture for other emissions and parameters.
* **Flexibility should continue.**
	+ **Default options (PO5 "Require competent authorities to consider under Art. 15(3) setting permit ELVs by default at the lower end of the BAT-AEL range") should not be used.** Lower emission limits do not necessarily mean that the impact on the environment is reduced. In addition, applying lower end of BAT-AELs may increase GHG emissions due to cross media effects for reagents' production. Moreover, any value within the BAT-AELs range is by definition associated to best applicable technique and therefore should be considered by the MS competent authority to set the permit value. Elsewhere, MS authorities should remain free to set different limit values as per Art. 15(4) based on a cost-benefit analysis.
	+ **BAT conclusions with associated environmental performance levels other than emission levels should remain not binding** as recommendation ranges allowing for proportional trade-off decisions aiming at the protection of the environment as a whole. Policy options (PO37) suggesting otherwise do not consider that material efficiency is strongly dependent on applied techniques and processes of a given sector. Also, binding performance levels would hamper innovation / production of advanced products.

. |
| Respecting scopes of EU law and avoiding overburdening the IED: activity scoping vs existing legislation, monitoring and reporting | The IED does not regulate some highly polluting (agro-)industrial sectors. | * **Changes in scope require economic, legal and technical assessment.** There is a need of assessing the economic and legal impact on a case by case basis associated with an enlarged coverage of sectors (targeted sectors in the revision: intensive cattle farms, intensive mixed livestock farms, intensive aquaculture, mining / quarrying industries, upstream oil and gas industries, battery production ,battery disposal and recovery, downstream ferrous metal processing activities, ship building and dismantling landfills, MCP and forging, textiles and biological treatment), particularly the impact on SME-intensive sectors (with risk of administrative burden), the possible limited number of installations across Europe or – vice versa - the extremely varying conditions (e.g. mining), and coverage of sectors into other legislation (e.g. landfill directive, extractive waste directive
 |
|  |  |  |
| Incentivising, not mandating, GHG, energy efficiency and circular economy | The IED had a limited positive contribution to resource efficiency, circular economy and climate change. The IED does not sufficiently support EU climate policy. | The limited contribution doesn't mean that the IED has failed its objective. On the contrary, numerous reports exist showing a stiff reduction of emissions since the Directive was put in place (eg. SOx declined by -54%, NOx by more than a third between 2007-17). That being said, the Sevilla process could help reaching the targets of the Green Deal in terms of climate neutrality, keeping in mind that the main objective of the directive should remain an integrated approach to tackling pollutant emissions. (For example, there are already some considerations included in the BREFs in relation to energy efficiency) also, * **IED vs Chemical legislation / IED vs ETS.** To ensure legal certainty for all the parties (competent authorities, citizens, industry), complementarity and consistency of different legislation are desirable and overlapping and double regulation is to be avoided. The Chemicals Strategy for Sustainability aims to reform the EU's chemical legislation. The "one substance, one assessment" principle and the REACH review aim to simplify the legal framework while strengthening risk prevention. The future changes in the chemical legislation are expected to benefit the environment more than it actually does. Instead, increasing the requirements on hazardous substances under the IED (PO3) would significantly increase the costs for operators, decrease their competitiveness, make the Sevilla process slower with little to no added value for the environment. Lastly, we note that these considerations were already included in the latest BAT-C. The ETS (under revision) is the cornerstone of the EU's climate policy and has proven to be a key tool to reduce GHGe in a cost-effective way. The different parties (MS and operators) have been able to combine the permitting procedures for both the ETS and the IED while respecting the differences in the nature of the permits and their objectives. Policy options aiming to delete Art. 9 or add requirements in permits directly on decarbonisation (PO33, 34, 35) would result in a double regulation and would put the benchmark-based allocation mechanism (already a nudge to reduce CO2e) at odd (double nudging system). Transformation plans under consideration by the Commission are part of the strategy of each company. Each company should be free to decide whether and when to make public such information. Moreover, this plan should by no means be a tool triggering a permit revision process neither a go/no-go for the continuation of the licence to operate. Lastly, it should be noted that Art. 9-1 doesn't prevent Seville from drawing GHG considerations for all sectors, but only to set ELV in permits for those sectors the GHG emission of which are covered under the ETS
* **Circular Economy.** It is very difficult to single out this in a permit for a single installation/single BREF. It also depends on the sector considered (e.g. for residues in one sector, one can reuse onsite, recycle and potentially use, but not possible to regulate other sectors to reuse material in BAT-C as every BAT-C is 'independent') whilst it is not advisable to have a BREF for Circular Economy for all sectors (considering their peculiarities).
* **Energy efficiency.** BAT-C on energy efficiency should maintain their indicative nature. Many abatement technologies will require a much higher amount of energy compared to today's state of the art technologies. Hence, setting mandatory AEELs (PO32) would lead to situations where an operator cannot comply with its IED permit and contribute to the achievement of the EU's climate target at the same time.
 |
| IED should support innovation  | The IED is not dynamic enough and doesn't support the rapid deployment of innovative technologies. | * **Targeted amendments to IED could unleash the innovation potentials.** Art. 15(5) opens for ELV temporary derogation for the testing and use of emerging techniques for a period of max. 9 months. This provision has not been widely used and had only a limited impact to innovation. This is due to the fact that 9 months is a too short timeframe to test / develop effective emerging techniques. The derogation should be granted for a certain period, which would depend on the maturity of the technology (TRLs) and the size, e.g. for big transformations, the steel sector is aiming at 2040. To assess the maturity of the technology, TWGs could be assisted by the Innovation Observatory which could help develop an emerging technology chapter. Firstly, the TWG shall remain responsible for developing BAT-C (where any of the techniques under consideration would qualify as BAT). This approach would foster sustainable innovative solutions,. Secondly ,the general description of an emerging technique in the BREF shall not lead to derivation of any “ET-AELs” (PO44). In this respect it is of utmost importance that the Sevilla process continues being technology neutral and avoid making any guess about emerging techniques used in a certain sector (this would not science-based nor economically viable, whilst the 10 headlines assessment are essential to establish whether it's a BAT or not). The BAT-AEL range approach should be maintained in order to properly take technical and economic factors into account (one should notice that going from TRL9 to BAT may still cost millions of € + require long time before achieving a given level of performance over a substantial period of time ). In short, emerging techniques can be a part of BREF as a chapter on what might be relevant for the sector, but it can never be binding. .
 |
|   | The IED is not as effective as it could be in terms of public access to information and participation. | * *Line to be developed*
 |