10 POINT PLAN FOR AN EFFECTIVE REVISION OF THE INDUSTRIAL EMISSIONS DIRECTIVE

The European chemicals industry supports the European Green Deal and the EU's ambition to became climate neutral by 2050. For our industry, reducing industrial emissions is a key target. We have achieved significant improvements in the last decades; our industry's greenhouse gas emissions (GHG) declined by 53% since 1990, while nitrogen emissions decreased by 47% over the past 10 years. But we are determined to do much more. This 10-point plan outlines how the Industrial Emissions Directive (IED) could be revised to further protect the health of people and the environment and support the sustainable production of essential products for the society in the EU.

PERMITTING

Action 1: Provide guidance to Permit Authorities on how to manage unintended side effects while reducing pollution due to new binding environmental requirements.

WHY? The current IED sets non-binding environmental performance levels (EPLs) for energy, water, materials and waste. This considers untended side effects of pollution reduction actions, known as "cross-media effects" i.e. increased water reuse may lead to increased energy usage. As EPLs cannot all be optimised in parallel, the proposal to shift to their legal status to binding may lead to conflicting abatement targets. Permitting authorities need clear legal guidance from the Commission to avoid complex non-compliance issues across chemical operators.

RESULT:
- A complete paralysis of the process is avoided due to unachievable requirements.
- Continues successful track record of the IED reducing pollutant emissions.

Action 2: Maintain ranges of associated emission levels (AELs) for granting permits

WHY? AELs are the outcome of a long and comprehensive data collection and expert exchanges providing ranges of associated emission levels. Ranges take into account the technical reality of operating conditions and are the legal foundations for industrial permits within the Best Available Techniques Reference Documents (BREF). The new IED proposes to move away from this pragmatic approach based on ranges, and sets binding AELs at the strictest level. This dismisses the reality of fluctuating emissions and differences in techniques.

RESULT:
- Allows site operators to drive their investments into operations with the most impact for health and the environment.
- The technical reality of operating sites is reflected.

Action 3: Align the BREF scope for environment and health

WHY? The current IED has successfully reduced emissions to the environment by focusing on the most significant sources. While we support the extension of scope to health, we call to focus on emissions that significantly impact human health, in line with the current approach. All other health aspects, including the properties of substances, are covered by dedicated EU legislations, like REACH and Occupational Safety and Health.

RESULT:
- Avoid loading the permitting process with overlapping health requirements.

Action 4: Avoid overlapping with the existing Emissions Trading Scheme (ETS) Directive

WHY? GHG emissions are regulated under the ETS Directive. Also introducing it under IED would lead to overlaps, conflicting priorities and inconsistencies.

RESULT:
- Keep a clear CO_2 reduction price signal under ETS.

MANAGEMENT SYSTEMS

Action 5: Allow a company-wide environmental management approach for all installations in scope

WHY? The new IED requests environmental and chemical management systems for each installation. However, since decisions on management systems are are usually taken at headquarter level, ensuring a common (auditable) system for the whole company, focusing on individual installations is not needed. Sites usually implement the corporate management system requirements and permitting Authorities must be able to decide the most relevant approach locally.

RESULT:
- Optimised environmental benefit through an overarching system.
- Avoid multiplication of efforts by centralising management systems at corporate level.

CONFIDENTIAL BUSINESS INFORMATION

Action 6: Protect Business Confidentiality

WHY? Data collection is central to the IED process. While it is important to maintain transparency of IED-related processes, confidentiality or commercially sensitive information must be maintained. Granular data should only be accessible to civil servants bound with secrecy agreements. Other stakeholders could access aggregated and anonymised information.

RESULT:

- Companies are able to retain their internal know-how of industrial processes as stipulated under EU law (eg 1049/2001 Arhus Convention).

INNOVATION AND TRANSFORMATION PLANS

Action 7: A fit-for-purpose timeframe is needed for Emerging Technologies to meet compliance levels

WHY? Uncertainty is inherent in every innovation process which is typically aligned with industry investment cycle. It takes 6 - 10 years for a new technology to be developed and then implemented. We therefore propose to extend timeframes for Emerging Technologies beyond the proposed 2 years to create realistic conditions for companies to innovate.

RESULT:

- Allow flexibility to encourage front runners
- Foster innovation and emerging "breakthrough" techniques.

Action 8: "Emerging Techniques" should remain non-binding

WHY? New "Emerging Techniques" are essential for driving industry transformation, but they need sufficient testing under real life conditions to become a Best Available Technique (BAT). As they are not considered a BAT, the Emerging Techniques' associated emission levels must remain non-binding.

RESULT:

- The IED process incentivises innovation by being inclusive of new (i.e. proprietary) technologies.

Action 9: Transformation plans must be set at company level, not at the installation level

WHY? Transformation towards climate neutrality is a strategic matter at a company corporate level. To ensure the best use of energy, raw materials and natural resources, most companies aggregate individual installations, known as industrial symbiosis. Transformation plans should therefore not be required at the level of individual installations but rather at the corporate level.

RESULT:

- Achieves best overall emission reduction performance at corporate level.
- Optimisation of industrial site emission reduction programmes i.e. GHG emissions

PENALTIES AND LEGAL ACTIONS

Action 10: Avoid reversing the "burden of proof" in instances of private damage claims

WHY? If an operator has caused or contributed to environmental or health damage, the IED proposal puts the burden of proof in case of non-compliance on the operator. This is in conflict with national rules of evidence and civil procedure. Proving innocence in case of contribution to a damage is close to impossible, hence the "burden of proof" must remain with the claimant, as with all EU jurisdictions.

RESULT:

- Coherence with national rules of evidence and civil procedure is maintained