EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

- Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste

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- Proposal for a Regulation of the European Parliament and of the Council on reporting of environmental data from industrial installations and establishing an Industrial Emissions Portal

COM(2022) 156 and 157
SWD(2022) 111 and 112

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Industrial Emissions Directive and the Regulation on the European Pollutant Release and Transfer Register

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Industrial Emissions Directive (IED) is the main EU instrument used to monitor, reduce and mitigate pollution from the largest installations covering several sectors including power plants, refineries, production of cement, steel, non-ferrous metals and glass. The IED aims to prevent, reduce and eliminate emissions into air, water and soil pollution arising from industrial activities.

The European Pollutant Release and Transfer Register Regulation (E-PRTR) establishes a an integrated database of publically-accessible information on pollution from Europe's largest industrial facilities.

The initiative aims to revise these two instruments to address shortcomings identified in the evaluations of the instruments and to ensure that they contribute fully to the EU's environmental and climate goals.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report does not sufficiently explain how the revised IED and E-PRTR will interact with and support other legislation.

(2) The report is not clear how the 25 measures under the option supporting 'more effective legislation' have been chosen and why no alternative measures are envisaged.

(3) The report is not clear on some relevant impacts of the envisaged measures, in particular on industrial competitiveness, Member States and consumers.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should expand and strengthen its analysis of the coherence between the revised IED and E-PRTR and other legislation. It should improve its explanation of the interaction with the EU Emissions Trading System and be clearer about any overlap (or synergy) with the Common Agricultural Policy when it comes to adjustment costs. It should explain how IED would interact with the Effort Sharing Regulation (ESR) given that it is an EU-wide horizontal instrument imposing binding GHG reduction requirements on specific operators and sectors, while the ESR sets an overall reduction target but leaves it to Member States to determine the appropriate national mix. It should, for example, explain how methane emissions (potentially covered by both instruments) would be tackled.

(2) The report should consider alternatives for the package of 25 measures in the option supporting more effective legislation (option 1). Many of these measures are contentious or are not merely clarifying ambiguous provisions but are clearly increasing ambitions. The report should consider all options that are likely to emerge in the legislative process, including a more restricted package of measures.

(3) The report should further develop the analysis of competitiveness impacts on industry (taking into account the high – in absolute terms – compliance costs even with only partial quantification) and assess the risk that operators may outsource their production to third countries. In particular, it should assess more thoroughly the impacts on competitiveness of the newly included industry sectors (e.g. livestock farms) and the risk that EU production will be substituted by third-country imports (benefitting from less stringent production requirements).

(4) The report should better explain, and present transparently, impacts on consumer prices (in terms of potential cost pass-through) and on third countries. It should clearly identify and analyse the impacts by Member State to reveal whether the implementation burden falls unevenly. It should assess territorial impacts, as the envisaged inclusion of the livestock sector is likely to affect in particular rural areas.

(5) When it comes to the proportionality of the measures considered, the report should more clearly account for the fact that for some of the benefits there is a higher level of uncertainty that they will materialise when compared with the costs. The report also needs to explain better the combined impact (any synergies or lack thereof) of the five different sets of measures chosen as preferred option.

(6) The report should be more explicit about any possible implementation issues and whether the necessary resources will be available across all Member States to ensure the consistent and effective implementation of the revised instruments.

(7) The report should better reflect the diversity of stakeholder views through the analysis and indicate how dissenting or minority views have been taken into account.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion **The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.** **If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**	
Full title	Revision of the Industrial Emissions Directive and the Regulation on the European Pollutant Release and Transfer Register
Reference number	PLAN/2020/6608 PLAN/2020/8555
Submitted to RSB on	10 November 2021
Date of RSB meeting	8 December 2021

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

<table>
<tr><th colspan="4">I. Overview of direct and indirect Benefits and estimated costs (total for all provisions) – Preferred Option vs BAU</th></tr>
<tr><th colspan="2">Businesses</th><th>National Authorities</th><th>Citizens and Consumers</th></tr>
<tr><td>More effective legislation (PO1)</td><td colspan="3">PO1 will improve the effectiveness of the IED and the E-PRTR Regulation by clarifying and simplifying the IED legislative framework; improving public access to information, coherence with the broader EU legal framework and policy objectives, especially the European Green Deal, zero-pollution ambition and the Aarhus Convention; and will level the playing field and raise standards of laggard Member States, especially in environmental protection.</td></tr>
<tr><td colspan="2">Direct benefits:
• The measures introduced on the E-PRTR will result in administrative cost savings for reporting – in total by 13.5 million/year. This counterbalances the additional administrative costs related to IED measures referred to below, resulting in overall stable administrative costs for businesses under this option.
• Savings stemming from clarification and simplification in the IED and the E-PRTR that could not be quantified

Indirect benefits:
• Improved level playing field primarily by homogenising and clarifying the requirements that businesses should comply with and expected</td><td>Direct benefits:
• Less duplication of effort, taking advantage of synergies via greater cohesion with related business and environmental ministries and departments
Indirect benefits:
• Clarifying and simplifying existing legal requirements will translate into reduced administrative costs
Costs:
• Authorities will need marginally more resources for bringing together and sharing data and information</td><td>Direct benefits:
• Improved quality of the environment via lower levels of emissions to air, water and soil.
• Participation in permitting of installations responsible for significant emission of pollutants
Indirect benefits:
• Improving public access to information will increase public leverage and ability to influence the environmental performance ambition
• The reduction in pollutant</td></tr>
</table>

enforcement practices • Improved environmental performance could have operational benefits in the medium to longer term, for example, through increased energy efficiency **Costs:** • Installations will need to employ more resources due to an increase in the frequency and/or depth and breadth required in permit reconsiderations, derogations and exemptions. This will constitute one off costs as they will materialise once per 10 years, corresponding to a yearly average of 13.6 million/year • Operational costs may increase or will be brought forward, primarily by introducing more stringent requirements and limiting the duration and/or reducing the likelihood of approval of derogations from implementing BAT Conclusions. This will also affect CAPEX: illustrative estimations for five sectors estimate CAPEX for reducing NOx emissions to represent €210 million/year	• Total administrative burden €15.1 million/year	emissions linked to use of safer chemicals will have indirect benefits such as improving public health and labour productivity, reducing social and healthcare burden. • Illustrative calculations for health benefits from reductions of NOx emissions in five sectors estimate this to represent at least between €860 million and €2 800 million/year
Accelerating innovation (PO2)	PO2 is expected to introduce incentives for operators to develop, test and deploy more innovative technologies in a context of rapid technological advancement and a need for deep industrial transformation in sectors regulated by the IED. The scale of impact of this measure would depend on the take-up and the findings of the Innovation Observatory.	
Businesses	***National Authorities***	***Citizens and Consumers***

Direct benefits: • Streamlined investment to develop and test innovative techniques and technologies • Effective and efficient intervention in updating BREFs through the Observatory monitoring **Indirect benefits:** • Putting the EU's industry in the front-foot of transformation, potentially gaining first-mover advantage and exporting acquired know-how or innovative techniques **Costs:** • Additional capital and operating expenditures will be needed from operators, although the scale is uncertain and would depend upon the response by IED operators and the selected novel technologies • Heavy industry transformation mainly be driven by the climate policy requires significant investments. This option may lead to an increase in and/or bring forward costs for IED operators, especially capital expenditure, by encouraging industrial transformation and favouring innovative and emerging technologies • Administrative costs are estimated at €54 million/year. This stems mainly from occasional one-off activities linked to permit reconsiderations following BREF reviews, less from yearly monitoring	**Direct benefits:** NA **Indirect benefits:** NA **Costs**: • Administrative burden €54 million/year. This stems mainly from occasional one-off activities linked to permit reconsiderations following BREF reviews and inspection/enforcement	**Direct benefits:** • Access to information about state-of-the-art techniques • Improved environment through faster deployment of innovative techniques **Indirect benefits:** • The potential reduction in pollutant emissions is likely to have indirect benefits such as improving public health and labour productivity, reducing social and healthcare burden. The scale of such benefits will depend on the degree of acceleration of technological progress

and reporting activities (1.1 million/year)			
Contributing to a non-toxic and resource efficient circular economy (PO3)	PO3 would enhance the status of the parts of BAT conclusions whose legal status is unclear. The EMS will provide sufficient flexibility for the pertinent actors. This will encourage a more efficient and circular use of resources with the lowest possible administrative, operational and capital costs. In the longer term, installations will contribute more to a circular economy and a resource efficient model of business and will move to using safer chemicals.		
Businesses		***National Authorities***	***Citizens and Consumers***
Direct benefits: • Operational cost savings in the longer term due to improved resource efficiency, reduced waste and carbon footprint • Market likely to reward good performers **Indirect benefits:** • Encouraging research and innovation **Costs**: • 60%-80% of IED installations may be affected, resulting in administrative costs for those operators; costs induced by measures to improve chemicals management, circular economy and resource efficiency will depend on the complexity of installation's plans and systems • Administrative burden: at €117.2 million/year		**Direct benefits:** • Clarity on how to implement BAT conclusions **Indirect benefits:** N/A **Costs:** • Administrative burden: €37 million/year	**Direct benefits:** • Reduced environmental footprint of industrial installations • Increased public access to information on emission of all pollutants by individual industrial installations **Indirect benefits:** • Enabling benchmarking of the environmental performance of different industrial activities • The potential reduction in pollutant emissions linked to use of safer chemicals is likely to have indirect benefits such as improving public health and labour productivity, reducing social and

		healthcare burden
Addressing decarbonisation of industry (PO4)	The scale of benefits of PO4 will depend on how energy efficiency and associated GHG and other pollutant emissions reductions incentivised via the IED may interact with the EU ETS framework. The benefits would include positive impacts on air quality; the efficient use of resources; waste production, generation and recycling; innovation and research; and levelling the playing field.	
Businesses	***National Authorities***	***Citizens and Consumers***
Direct benefits: • Economies of scale stemming from an integrated approach towards transformation (depollution and decarbonisation) • Improved energy efficiency **Indirect benefits:** • Encouraging more investment in developing and testing innovative techniques and technologies **Costs:** • Additional capital and operating expenditures related to energy efficiency measures implemented by operators is uncertain and would depend upon the response by IED operators, and whether those measures are needed to comply with other climate or energy law (e.g. the Energy Efficiency Directive). • Administrative burden: €29 million/year	**Direct benefits:** N/A **Indirect benefits:** • Cooperation between authorities in charge of the IED and the Energy Efficiency Directive should ease overseeing of overall implementation **Costs:** • Administrative burden: €21million/year	**Direct benefits:** • Information and better understanding of all GHG emissions (going beyond CO_2) **Indirect benefits:** • The potential reduction in pollutant emissions is likely to have indirect benefits such as improving public health and labour productivity, reducing social and healthcare burden
Industrial scope (PO5)	PO5 is the most significant option in terms of costs. It will more than triple the number of installations covered by the IED, mainly in the livestock-rearing sector. The tailored regulatory framework will significantly mitigate the associated administrative burden.	

Businesses	*National Authorities*	*Citizens and Consumers*
Direct benefits: • IED permitting provides a recognition that installations apply BAT, improving the green credentials of the company • Levelling of EU playing field **Indirect benefits:** • Encouraging more investment in developing and testing innovative techniques and technologies **Costs:** • Intensive livestock production will bring additional 84 000 cattle farms and 77 000 pig and poultry farms under the IED scope, representing the largest 13% non-subsistence farms, out of the c.1.5 million farms within these sectors. The tailored approach reduces the administrative costs associated with IED permitting by 20 to 30%, depending on the specific activity. Compliance costs will be both one-off (abatement techniques) and recurring. These should not surpass €300 million/year • Other scope expansion will bring additional 1 500 to 1 900 installations under the IED that will be subject to full IED permitting, possibly including some SMEs. The associated costs for businesses should not surpass €41 million/year	**Direct benefits:** N/A **Indirect benefits:** N/A **Costs**: • Intensive livestock production will bring additional 84 000 cattle farms and 77 000 pig and poultry farms under the IED scope. The tailored approach reduces administrative costs associated with IED permitting by about 30% through. • Other scope increase will bring additional 1500 to 1300 installations under the IED scope that will be subject to full IED permitting. • Administrative costs: €177.3 million/year	**Direct benefits:** • Participation in permitting of installations responsible for significant emission of pollutants • Increased public access to information on emission of all pollutants by individual industrial installations **Indirect benefits:** • The potential reduction in pollutant emissions is likely to have indirect benefits such as improving public health and labour productivity, reducing social and healthcare burden. • Reductions in methane and ammonia emissions are valued at over €7 285 million per year (using damage costs and carbon price)

• Administrative costs of €226.5 million. This stems mainly from occasional one-off activities linked to the permitting process estimated at 167.1 million/year. Recurrent costs (monitoring, reporting and inspections) represent 59.4 million/year		