

## Cefic position on the treatment of GHG emissions in the Industrial Emission Directive ('IED')

The EU Emissions Trading System (EU ETS) is a cornerstone of the Union's climate policy and it is a key tool for reducing GHG emissions in industry in a cost-effective way. The energy legislative framework has also indirectly contributed to reduce GHG emissions in industry by promoting energy efficiency, consumption of renewable energy sources and electrification.

Many industrial plants in the scope of the Industrial Emissions Directive (IED) are covered in parallel by the EU ETS. Therefore, the reduction of GHG emissions has not been a primary objective of IED design and implementation. In particular, GHG covered by the EU ETS and emitted by installations within the EU ETS are specifically exempted from the scope of the IED (owing to the exemption allowed under IED Article 9).

The legal requirement for EU ETS covered installations to remit Emissions Allowances (EUAs) ensures that the covered sector will meet the climate change targets. The Green Deal has set clear climate ambitions, which have significantly increased the pressure on GHG emissions abatement. In addition, investors' pressure on companies to comply with the UN SDGs has increased enormously.

It will be essential for the IED and the BAT processes to not hamper the rapid scale up of breakthrough GHG abatement technologies, which is indispensable to reach climate-neutrality, while maintaining competitiveness. Cefic therefore supports the Commission's objective to ensure maximum consistency between the IED and the climate and energy regulatory framework and sees no value to 'double regulate' the EU ETS covered sector and create inconsistency and instability.

The High-Level Group on Energy-intensive Industries<sup>1</sup> recommended in 2019 that *"the Industrial Emissions Directive permitting process should be adapted to support GHG abatement measures in energy-intensive installations throughout the transition. The low carbon emission technologies under development should be assessed as potential emerging techniques during the BREF drawing and reviewing process"*<sup>2</sup>. During the transition it will also be increasingly important to consider potential trade-offs between the climate and pollution objectives. For example, more stringent ELVs may lead to excessive energy consumption or a wide-spread use of hydrogen in the energy system may lead to increases of NOx emissions (which is not the case if hydrogen is used as chemical feedstock).

We nevertheless consider that regulating GHGs under the IED and setting GHG emission limit values will be counter-productive for several reasons:

- **Unlike the EU ETS, which does not prescribe any specific technology for achieving GHG emission reductions, the IED is a static command and control instrument.** BAT-AEL for GHGs would just add

<sup>1</sup> The Commission set up the High-level Group on Energy-Intensive Industries in October 2015, composed of Member States, industry and civil society. The group's objective is to advise and assist the Commission in the preparation of policy initiatives of relevance to energy-intensive industries.

<sup>2</sup> Page 34 of the "Masterplan for a Competitive Transformation of EU Energy-intensive Industries Enabling a Climate-neutral, Circular Economy by 2050"

another layer of regulation and cost, without real value-added for climate change but a significant impact on our global competitiveness.

- **GHG and pollutants have different types of environmental and geographical impacts, so it makes sense to tackle them through separate dedicated instruments.** Whilst pollutants have local and transboundary effects, the impact of GHG emissions is global. Plant closures or redirection of investments outside of the EU, which might be the short- or long-term consequence of asymmetrical climate policies, will likely result in GHG emissions happening elsewhere with no beneficial impact or even negative impacts for the climate. In order to prevent this from happening, a sophisticated carbon leakage protection system has been established within the EU ETS regulation and additional measures (like border adjustment measures) are under discussion. Without carbon leakage prevention measures under the IED, imposing GHG ELVs, and as a consequence asymmetric costs versus extra-EU producers, could have irreversible consequences on the competitiveness of EU producers, without benefits for the planet.
- **Due to the different regulatory approaches, tackling GHG emissions both under the ETS and the IED cannot be done in a synchronized manner and would result in inefficient overregulation and inconsistency.** The IED is a static command-and-control instrument. The EU ETS on the other hand, has a dynamic and incentive-based approach that ensures technology neutrality and lets the market decide which abatement options are developed first. If IED “shadow” carbon price (i.e. the cost per ton of GHG abated of technologies to meet the ELVs) is higher than the EUA price, the latter will not drive emission reductions anymore, making the EU ETS ineffective. If on the contrary the IED “shadow” carbon cost is lower than the EUA price, the EU ETS will drive those emission reductions autonomously, and ELVs will partly lose their relevance. It is therefore difficult to see how any further benefit can be added by prescribing Best Available Technologies under the IED.
- **Regulating non-ETS industrial installations under the IED would also restrict existing flexibility to reach their climate targets for member states.** Today even non-ETS installations are covered by the climate targets: a clearly defined number of emissions are allowed for every Member States under the effort sharing directive – and industrial non-ETS installations fall under these budgets. GHG emission limit values would again result in overlapping regulation and restrict Member States’ possibility to look for the most cost-effective abatement measures.
- **Regulation of GHGs is in contradiction with the BREF process.** Even though the BREF process is a formal process, its original intention is to describe, evaluate and derive conclusions on relevant pollutants and new technologies. All these considerations are based on technical feasibility and availability of techniques, including a risk-based approach and considering economic feasibility. Describing GHGs as mandatory substances in the BREF contradicts the idea of the whole process to focus on relevant aspects for a sector.
- **Regulating GHG at the unit level would be inefficient.** By setting a GHG emissions constraint at the level of each unit instead of site/installation level, the IED would leave no flexibility to the operator of the site to optimize the abatement option through a cost-efficient approach (following the abatement cost curve). The EU ETS operates on the aggregated level. It creates a market dynamic that allows investments to flow to the solutions that have the best cost/benefit relation and technical capabilities, while ensuring that the overall climate goals are met.
- **Energy efficiency framework is sufficient.** The chemical industry is continuously working on innovative processes to use new raw materials and technologies in a resource- and energy-efficient way. In recent decades, the chemical industry has significantly increased its production output while energy consumption has fallen. From the chemical industry's point of view, setting an energy consumption target for industry must be viewed with care, as such a target would de facto acts as a brake on growth and could hinder the deployment of renewable energy sources in industry.

In summary, Cefic believes that the EU ETS is and remains the most appropriate regulatory tool to organize the reduction of GHG emissions from industrial installations, providing a stable and consistent regulatory framework.

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#### About Cefic

Cefic, the European Chemical Industry Council, founded in 1972, is the voice of large, medium and small chemical companies across Europe, which provide 1.2 million jobs and account for 16% of world chemicals production.