

## INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to share any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	Revision of the Industrial Emissions Directive
<b>LEAD DG – RESPONSIBLE UNIT</b>	DG ENV Unit C4 Industrial Emissions & Safety
<b>LIKELY TYPE OF INITIATIVE</b>	Legislative proposal
<b>INDICATIVE PLANNING</b>	2021
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en">https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en</a>

**The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception Impact Assessment, including its timing, are subject to change.**

### A. Context, problem definition and subsidiarity check

#### Context

**Directive 2010/75/EU on industrial emissions** (the IED) is the main EU instrument regulating pollutant emissions from industrial installations in order to achieve a high level of protection of the environment. Various primary industrial sectors are in the scope of the IED. Permits must be issued for these installations by national authorities with conditions based on the use of Best Available Techniques (BAT). An [evaluation of the IED](#) has been carried out. Among its findings were that it largely works well but there are a number of areas where improvements might be possible in its design and implementation.

The **European Green Deal** aims to reduce the environmental impacts of the EU, including its climate impacts. In view of industry's important contribution to overall pressures on the environment, it must make an appropriate contribution to meeting this overall goal. The European Green Deal commits the Commission to review EU measures to address pollution from large industrial installations and how to make them fully consistent with climate, energy and circular economy policies. Furthermore, the High level Group on Energy Intensive Industries, set up in 2015 to advise and assist the Commission in the preparation of policy initiatives of relevance to energy-intensive industries, has also identified that IED permitting could support GHG abatement measures for these sectors.

#### Problem the initiative aims to tackle

The EU's economy will undergo a major transformation to become climate neutral and circular. This evolution requires an appropriate legal framework. The recent evaluation of the IED has identified a number of broad areas where the operation of the legislative framework might be improved to better contribute to those goals. Specific aspects to be addressed are:

- There may be sectors outside the IED scope that cause high pollution and for which the IED could be an appropriate policy instrument
- Comparability of Member States' implementation of EU requirements, including BAT conclusions, into permits and verification
- Contribution to reducing industry emissions to water
- Elaboration of BAT conclusions
- Public access to information, participation in decision making and access to justice
- Contribution to the circular economy
- Interaction with industry decarbonisation efforts
- Coherence with other EU legislation

#### Basis for EU intervention (legal basis and subsidiarity check)

The main objective of the IED is tackling the environment and health impacts of industrial activities. Its main mechanism to achieve this is the requirement for industrial operators to use BAT. Article 192 (environmental measures) of the Treaty of the Functioning of the EU provides the legal basis for the intervention.

A range of aspects of the action cannot be achieved by Member states acting alone. The main aspects are:

common environmental requirements for similar installations operating in different Member States, avoiding any distortions of competition or race to the bottom in environmental requirements. The process of producing BREFs and BAT conclusions would be uneconomic to replicate in each Member State. From a practical point of view, most Member States would also not have enough installations to enable BREFs to be produced in a meaningful way. Among the findings of the evaluation is that there was significant EU added value from the Directive.

## B. Objectives and policy options

The overall structure of the IED appears to function well. However, specific aspects have been identified, where there may be potential to enhance the legal framework or find alternative approaches to improve its performance. Policy options will be developed for the following aspects:

### Baseline Scenario

No change to the current situation. BREF reviews continue and there is a continued progress in reducing industry environmental impacts.

### Inclusion of additional sectors

The evaluation identified possible sectors that it might be advantageous to include in the IED, for example cattle farms, mixed farms, extractive industries, aquaculture and installations in current sectors just below the existing thresholds.

### Implementation issues

Options to enhance consistency of Member State implementation of IED requirements will be explored.

### BREF process

Options to improve the BREF elaboration process will be explored.

### Access to information, participation in decision making and access to justice

Weaknesses will be identified and options for addressing them explored.

### Contribution to the circular economy

The untapped potential for the IED to further contribute to circular economy objectives will be explored including options for realising that potential.

### Interaction with decarbonisation of industry

Industry regulated by the IED will need to largely decarbonise over the next thirty years. To optimise the benefit to society that process should ensure that changes also deliver improvements in all other environmental aspects. The options to support this transition will be explored.

### Coherence with other EU legislation

Some areas have been identified where the IED might better support other EU legislation. The potential to do this and the options to achieve it including enhanced coherence with the E-PRTR Regulation (EC) 166/2006 will be explored.

The specific options and associated measures will be further refined during the Impact Assessment process and may include simplification of procedures, provisions to further harmonise the implementation of certain procedures and provisions and measures to reduce unnecessary regulatory and administrative burdens.

## C. Preliminary assessment of expected impacts

### Likely economic impacts

There are not expected to be large economic impacts unless radically different approaches to those in the current legislation are proposed. Assessments carried out so far show that costs for compliance with the requirements of the IED and BAT conclusions are relatively small.

Industry is likely to need to make significant investments in the future to support the move to climate neutrality. Industry may also be able to contribute to reducing resource use and promoting a more circular economy. This may involve investments but would help decouple the EU economy from future natural resource constraints and associated costs. Changes to the IED may affect the magnitude and timing of such investments.

If sectors are added to the scope of the IED, their operators would face adaptation costs, in particular to implement BAT. Where it has been possible to assess, the societal benefits from the IED have substantially outweighed its economic costs. Provided the overall architecture remains broadly similar that situation would not be expected to change.

The promotion of process improvements and after-treatment is expected to have positive impacts on innovation and research. No specific impact on SMEs is expected.

### Likely social impacts

There are a number of indirect social benefits from cost effective measures to reduce environmental impacts of industry. These will result from lower direct health impacts from the emissions or local impact of the installations.

These impacts have been shown to impact disproportionately on poorer people and therefore their reduction will enhance social justice. Equivalent environmental requirements between Member States ensure that there is no environmental dumping within the EU.

By ensuring that the legal framework delivers cost-effective environmental improvements, any impact on the competitiveness of EU industry and consequently on its employees will be minimised.

#### **Likely environmental impacts**

The legislation has contributed to reducing environmental degradation and enhancing the quality of life in the EU. Improving its effectiveness will lead to further improvements in the environment.

#### **Likely impacts on fundamental rights**

No negative impact on fundamental rights is expected. Certain aspects, for example relating to public access to information or participation in decision making, may be enhanced.

#### **Likely impacts on simplification and/or administrative burden**

Whether there are any impacts on the quantity of legislation or the administrative burden from it will depend on the conclusions drawn. While any increase in the scope would be likely to increase permitting requirements, there may be options to simplify requirements for sectors with a large number of installations.

### **D. Evidence base, data collection and better regulation instruments**

#### **Impact assessment**

An impact assessment will be carried out to support the preparation of this initiative and to inform the Commission's decision. The impact assessment will look at all economic, social and environmental impacts, and be supported by a study that will thoroughly review literature, gather stakeholder views and analyse the implications of different options for those affected.

#### **Evidence base and data collection**

Data and information will be needed for the assessments and analyses underpinning this initiative. A large amount of evidence has been gathered in carrying out the evaluation of the IED and that will provide important input to the impact assessment. Data is available on the functioning of other legislation that the IED interacts with<sup>1</sup>. Further information will be gathered, for example when assessing possible expansion of the IED's scope.

A substantial amount of robust data exists on emissions, permits, BREFs and EU level activities such as the production of BREFs and the operation of the IED Forum. Nevertheless, there remain data gaps, as identified in the evaluation, for example in relation to IED impacts on resource use, the scope for a greater contribution to the circular economy and the implementation of BAT conclusions in permits. Further analysis is underway to attempt to fill some of these gaps.

#### **Consultation of citizens and stakeholders**

The aim of the consultation will be to allow all stakeholders to give their views on the best options to enhance the EU's industrial emissions legislation. The consultation will be based on a questionnaire, available in English, French and German. It will run for 12 weeks and will be made accessible via the Commission's central public consultations page ['Have your say'](#).

In addition, stakeholder meetings will be organised to present and discuss the main issues and options under consideration, as well as the main conclusions of the impact assessment.

The main expected stakeholder groups to be consulted are:

- Member States / public authorities
- Business associations (in particular agro-industrial industries)
- Non-governmental / civil society organisations
- Citizens (individuals)
- Workers associations / trade unions

The results of the consultation activities will be published on the Commission's central consultation page once all consultation activities are over.

#### **Will an implementation plan be established?**

An implementation plan will be prepared together with the legislative proposal.

<sup>1</sup> For example Directives on air and water quality and the urban waste water treatment Directive.