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## Joint Industry statement on the revision of IED and E-PRTR

The associations listed above welcome the review of the Industrial Emissions Directive and the E-PRTR Regulation, and the opportunities provided to stakeholders to submit input so far. Before the end of these processes, we would like to emphasize, once again, our main messages.

Current IED provisions and the related BREF process have enabled a major step forward in the reduction and elimination of pollutants arising from agro-industrial activities since 2010, - a progress which was well recognised IED, in particular the integrated approach and the use of best available techniques, have been and are key for achieving results in terms of environmental performance of industrial installations in Europe. Furthermore, the IED needs to remain technology neutral.

This paper aims to sum-up and present our digested position on the Policy Options proposed during the stakeholder workshops on the IED and EPRTTR review that took place in July 2021.

- ***On decarbonisation and Green Deal***

On the one hand the IED may help reach the targets of the Green Deal in terms of climate neutrality and should address the available techniques in this respect, keeping in mind that the main objective of the directive should remain an integrated approach to tackling pollutant emissions. On the other hand, the EU Emissions Trading System (EU ETS) is a cornerstone of the Union's climate policy and the key tool to reduce GHG emissions from industry in the most cost-effective way.

The key economic rationale behind emissions trading is to ensure that emissions reductions required to achieve a pre-determined environmental outcome take place where the cost of their reduction is the lowest. The energy legislative framework has also indirectly contributed to reduce GHG emissions in and from industry by promoting energy efficiency and consumption of renewable energy sources. The ETS applies to most of the significant GHG emitting activities that are also covered by the IED. Since they coexist, Member States competent authorities and operators have been able to combine the permitting procedures for both the ETS Directive and the IED, while respecting the differences in the nature of permits and their objectives.

In conclusion, we do not support the policy options that would delete Article 9 or add direct requirements on decarbonisation in permits (**PO 33, 34, 35**): the IED shall remain the tool to regulate direct pollutant emissions that are under the control of the operators. The transformation plans under consideration by the Commission should be neither a tool triggering a permit revision process nor a go/no-go for the continuation of the license to

operate. Any transformation plans should be specific and become part of BAT conclusion number 1 (on Environmental Management System).

Moreover, we believe that GHGs already regulated under the ETS should not be identified as KEI, and BAT conclusions should not be derived from GHG-related data collection. Regarding BAT conclusions on energy efficiency, we believe they should keep their indicative nature. Many abatement technologies will require a much higher amount of energy compared with today's state of the art technologies. Hence setting mandatory AEELs (**PO 32**) would lead to situations where an operator could not contribute to the achievement of the EU climate-neutrality objective whilst also complying with its IED energy efficiency permit requirements.

- ***On BATAELs on emission limit values***

The integrated approach ensures that permits are set to consider the whole environmental performance of the installation, covering emissions to air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and restoration of the site upon closure. This is the main reason why BATAELs are expressed as ranges. In this way, balanced and proportional trade-offs can be made and guide decisions and help protect the environment as a whole.

Default options, as mentioned in **PO5** ("Require competent authorities to consider under Article 15(3) setting permit ELVs by default at the lower limit of the BAT-AEL range.") should not be used. ELVs should continue to be set in the BATAEL range after careful assessment of specific conditions by the Competent Authorities, as lowering emission limits does not necessarily mean that impact on the environment is reduced.

Lower ends are sometimes linked to minimum measured values or close to the detection limit of instruments and therefore cannot be implemented as limits with the necessary legal certainty for compliance reasons. In addition to that, and linked to the point above, GHG emissions could even be increased in some cases by applying the lower end of BATAELs due to cross media effects for reagents' production.

- ***Non-binding BAT-AEPLs***

One of the considered Policy Options (**PO 37**) is to "Introduce an explicit reference to the binding nature of resource efficiency BAT-AEPLs for new permits and permit reviews".

In the majority of the IED sectors, material efficiency is something that strongly depends on applied techniques and processes. The significant variety of existing configurations for industrial installations would undermine the possible benefits from any binding AEPLs for material efficiency. In some sectors, the increased complexity of the management of waste will require that every subsector/installation develops specific configurations to meet the specific challenges, and this could not realistically be captured in a general BREF document.

The IED's potential to foster resource efficiency and circular economy is there but would not be realised by setting binding environmental performance levels other than BAT-AELs and thus the BAT-AEPLs should remain indicative to avoid counterproductive results. For instance, binding performance levels on energy could hamper innovation and the production of advanced products, which are usually more energy-intensive.

- ***On emerging techniques***

One should not dilute and confuse the existing concept of BAT-AELs with new parameters with different legal nuances such as ET-AELs. The general description of an Emerging Technique in the BREF should not lead to the derivation of "ET-AELs" (**PO 44**) because of the significant uncertainties surrounding those ET - due to low maturity of the decarbonisation options (currently small scale or pilot projects). While we fully support fostering innovation as well as a better use and staffing of the innovation observatory, where participation of operators and experts from industry is essential, its activities should be kept separate from the BREF process. Innovation should be

supported and incentivized but not forced. In addition, an appropriate selection of applied RTD institutes and technology developers and providers should be implemented to ensure a well-balanced representation of stakeholders. It is also important for ensuring continuity in the Seville TWGs assessment role for techniques at Technology Readiness Level 9, according to the 10 headings assessment, in order to establish whether it is a BAT or not. The innovation observatory can solely identify innovations.

Having regard to the challenges before us we believe that an additional period before compliance with BAT AELs becomes mandatory is welcome, for whatever the new innovative technique that will be recognized as BAT after completing any upcoming BREF reviews, ending with the adoption of BAT conclusions.

Generally, we see a benefit from looking closely and more frequently at new techniques but also want to caution that technologies must be ready, mature, technically proven and economically viable before they become eventually the reference to set permit conditions. It is vital keep the current definition of BAT.

- ***Chemical legislation***

Hazardous substances are covered by other chemical legislation. While complementarity and consistency of different EU regulatory pieces are desirable, overlapping and overbearing regulation is something that should be avoided to ensure legal certainty for competent authorities, citizens and industry.

The Chemicals Strategy for Sustainability (CSS), with the 'one substance-one assessment' (OSOA) principle, already envisions to simplify and strengthen the legal framework through better coordination and distribution of tasks between EU agencies and scientific bodies concerning the hazard, risk assessment of the uses and the cumulative risks from all uses of the same chemical.

Such an approach can offer benefits as there will be no need for inclusion of more extensive requirements on hazardous substances in the IED, which would otherwise significantly increase costs for operators and proportionally decrease their competitiveness, with little to no added value for the environment.

- ***Extending the scope***

Extending the scope needs careful consideration from environmental and economic perspective. In this context the inclusion of the mining sector is not appropriate due to the diversity of the sector and its specificities.

- ***E-PRTR***

EPRTTR and IED are interconnected, as they cover the same types of installations. However, aims and priorities are different and should be kept as such. The E-PRTR Regulation shall not be the reference to identify well-performing installations or identify key environmental issues for the BREF review process.

The EPRTTR already balances the right level of information with the right level of complexity in order to reach a maximum of citizens. A more detailed reporting would not increase the benefit for the public but what it would impact is the time spent and costs for the operators and the administrative burden for authorities.

If the intent would be to provide a benchmark, this is better done within a BREF document, where indicative AEPLs are set with the necessary information and already existing know-how.