



13 September 2019

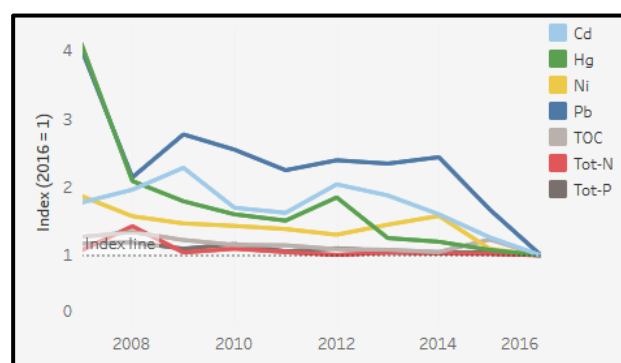
Re: Industrial Emissions Directive targeted stakeholder consultation

The Industrial Emissions Directive (IED) represents one of the most relevant pieces of legislation for industrial sectors; regulating the core activity, the permit process, best available techniques and binding associated emission levels. BusinessEurope welcomes the opportunity to contribute to the process.

The BAT Reference Documents (BREF) and Best Available Techniques (BAT) exercise, derived from the IED (originally IPPC) has proven to be a global trend-setter, creating a system that is being replicated in different forms outside the European Union.

European Environmental Agency (EEA) data shows relevant reduction of emissions since the directive has been in place. Since the year 2000, emissions to air of many pollutants from industry¹ “*have significantly decreased*”, whereas the corresponding sectoral activity indicator decreased much less or even increased (i.e. industrial processes and product use sector)². On the concrete case of Large Combustion Plants (LCP), emissions between 2004-2015 decreased by 77 % for sulphur dioxide, 49 % for nitrogen oxides, and 81 % for dust particles, which represent key pollutants deriving from these activities.³ Further, the IED regulatory process has proven to be effective in controlling industrial emissions to water⁴. The following figure shows the downward trend derived from industrial activity in the 2007- 2016 period.

Industrial water emissions, EU-28, 2007 to 2016



Source: [2018 Industrial pollution country profiles, EU-28](#) (EEA)

¹ Industrial processes and product use sector, and the energy use in industry sector

² EEA Report 2018 [“Air quality in Europe — 2018 report”](#):

³ EEA report 2019 [“Assessing the effectiveness of EU policy on large combustion plants in reducing air pollutant emissions”](#)

⁴ EEA report 2018 [“Industrial waste water treatment pressures on Europe’s environment”](#)



The Industrial Emissions Directive has proven to be successful, partly thanks to the support of the following three key guiding principles, which remain to be very relevant:

- An integrated approach (protection of the environment as a whole) that takes into account cross-media and economic effects.
- BAT Associated Emission Levels (technically achievable and economically viable for the sector as a whole) based permit conditions, ensuring a level playing field within the EU while protecting the competitiveness of the EU industry.
- Taking into account the geographical location, the local environmental conditions and the technical characteristics of the installation concerned.

We believe that the Industrial Emissions Directive remains relevant to the environmental objectives, and in line with other European policies and strategies. It covers all relevant environmental issues therefore special attention should be made to avoid overlaps, contradictions or inconsistencies with other legislation pursuing other objectives, and to avoid retroactive measures (foresee sufficient transitional periods).

A special consideration should be made to avoid the transfer of disproportionate burden on the operator. In certain cases, Member States raise considerably the reporting requirements.

To conclude, it is worth ensuring a harmonised implementation of the EU regulatory framework (neither under transposition nor gold-plating should occur) that would secure a level playing field throughout the EU.

The Seville process

The IED enforced and strengthened the Sevilla process, becoming a more innovative and harmonized process that sets up legally binding BAT Associated Emission Levels (BAT AELs)⁵ for all EU countries and installations. Based on the solid and reliable data collected from operators of the activities, it has proven to bring a strong added value to the overall achievement of the IED objectives.

The Seville process must be limited to the control of the relevant industrial emissions. Environmental authorizations through the IED cannot become the tool for controlling all types of legal requirements in the industry, nor should it become the appropriate tool for every upcoming environmental challenge by default.

Nonetheless, we identified a number of aspects to preserve but where the efficiency should be improved:

- The collection of robust, reliable and representative data – including contextual information - where environmental performances are measured, and for the identified key environmental issues for which the criteria have been set by DG Environment⁶.

⁵ Best Available Techniques and Associated Emission Levels

⁶ Discussion paper 7 October 2015 "Criteria for identifying key environmental issues for the review of BAT reference documents under Article 13 of the IED"



- Acknowledgement and respect of the full BREF guidance document in order to ensure valid BAT AELs.
- Applicability restrictions since “one size does not fit all” and cross-media effects shall be taken into account. These restrictions should be given based on technical and economic grounds.
- A clear and transparent methodology to derive BAT AELs⁷: a harmonized process would improve the transparency for all parties involved, avoiding recurrent discussions at technical working group level. Furthermore, it should be based on collected data for each technique and sector, and not through a simplistic statistical assessment. Special attention should be paid to the conditions for observed emission levels to be included in the BAT AEL ranges.

The Article 13 Forum

The directive required the Commission to establish and regularly convene a forum composed of representatives of Member States, the industries concerned, and non-governmental organisations in order to promote environmental protection.

BusinessEurope highlights the relevance of this Forum, and the importance of all relevant sectors participating in these meetings, in order to provide their technology expertise (also to be extended to participation in the Technical Working Group).

The tasks of the Art 13 Forum include the discussions on draft working programmes. On occasion, these have come at late stages of the process, affecting the efficiency of the process and not allowing stakeholders to coordinate internally. General discussions on the Seville process tend to be avoided in the Forum meetings, and focus in the content of one BREF a time

Conclusion

While we remain doubtful of the appropriateness on the timing of this evaluation, given that several BREFs have yet to be adopted, our current assessment of the IED performance, and its previous legislations, has so far proven to achieve the directive objectives.

Rather than a revision, BusinessEurope suggests to focus future efforts into improving the implementation of the Industrial Emissions Directive, using the collective experience acquired since the directive was introduced. This document and the concrete responses to the questionnaire below, provide certain insights where the implementation could be further enhanced, particularly in the functioning of Seville process.

⁷ Discussion paper 24 May 2017 sectors belonging to Industrial emission Alliance willing to contribute to the development of a systematic approach for deriving suitable BAT-AELs ranges



Online stakeholder survey

1.1 To what extent do you think that the IED has contributed to reducing and (as far as possible) eliminating pollution arising from industrial activities:

Strongly agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Strongly disagree	Do not know
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1.2 To what extent do you think that the IED has contributed to reducing the following for agro-industrial activities:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Do not know
Consumption of natural resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Energy use	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waste generation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1.5 Please provide further details to justify your answers including any supporting evidence

Consumption of natural resources: no definition of natural resources in the IED. Art 13 of the IED mentions consumption and nature of raw materials.

Nonetheless, consumption of natural resources is reduced via BAT implementation, for example recycling iron bearing materials into steel plants. Another example would be the use of residues from one industry into another, such as steel slags for road construction.

A cross-sectoral response on this issue is complicated, in this regard we would refer to other sector association responses for a detailed view on the issue.

2.3 To what extent do you think that the IED contributes to the reduction of hazardous substances (persistent organic pollutants, heavy metals)?

Strongly agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Strongly disagree	Do not know
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Please provide further details to justify your answer including any supporting evidence

IS sector (11% total EEA-33 mercury emissions to air in 2016)- thanks to the implementation of the IS BREF, the releases of mercury were 36% lower in 2017 than in 2008. (<https://www.eea.europa.eu/publications/european-union-emission-inventory-report-1990-2016>)

Further information can be found in page 99 of the European Union emission inventory report 1990-2016 (<https://www.eea.europa.eu/publications/european-union-emission-inventory-report-1990-2016>)

3.2 In relation to the industry/sector you represent, what impact do you think the IED has had on the competitiveness of the EU industry?

Significant benefit	Some benefit	None	Some disadvantage	Strongly Significant disadvantage	Do not know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

We view this question as EU industry within the global context.

3.3 To what extent do you think that the regulation of environmental impacts through the IED and developments of BREFs and BAT Conclusions has stimulated innovation in the prevention and control of pollution from industrial activities?

Strongly agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Strongly disagree	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3.6 Does the IED remain relevant in view of the need for industry to rapidly adapt to a zero-carbon economy by 2050?

Yes	Partially	No	Do not know
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If not, what prevents it from being fit for purpose? Please elaborate to justify your answer and provide details and any supporting evidence.



IED objective and purpose is to address primarily environmental impacts, nonetheless it contributes to resource efficiency and as such indirectly to the climate change mitigation.

The IED is not the main tool for Greenhouse Gas (GHG) control, as stated in Art 9 of the IED: *“the permit shall not include an emission limit value for direct emissions of that gas, unless necessary to ensure that no significant local pollution is caused”*.

The Emission Trading Scheme (ETS), a market-based instrument, is the appropriate tool for the mitigation of CO2 emissions.

4.4 To what extent do you think that the BREF process identifies the most appropriate associated emission or performance levels for achieving the following?

	Strongly agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Strongly disagree	Do not know
A high level of environmental protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protecting human health	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.5 Please provide further details to support your answers to the four questions above and any supporting evidence

Even though the BREF process allows deriving associated emission level (AEL)/associated environmental performance level (AEPLs) for achieving a high level of environmental protection, a concrete agreed methodology on how to derive BATAELs is still missing.

Furthermore, the existing guidance (see implementing decision 2012/119/EU, par.3.3) should systematically be followed: expert judgements shall not be used to derive BAT-AELs whenever a sound basis for doing so does not exist (i.e. no relevant data has been gathered during the exchange of information such as the case for the Surface Treatment Using Organic Solvents including Preservation of Wood and Wood Products with Chemicals (STS) BREF). We encourage the use of quality data (type A or B- with a large or significant amount of information collected), as referred to in the guidance document.



4.6 Is the composition of the Technical Working Group (TWG) established for each BREF appropriate for the following:

	Yes	Neutral	No	Do not know
For identifying key environmental issues for a sector	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For identifying BAT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For developing effective BAT Conclusions To help stimulate innovation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If neutral or no, please provide a further evidence to support your answer e.g. how could the composition change to better stimulate innovation?

It should be ensured that all relevant sectors are in the TWG in order to provide the necessary expertise.

4.7 How do you think that the following elements of the BREF process have changed under the IED (compared to under the IPCC Directive) and are in line with the guidance set out in the Commission implementing decision 2012/119/EU

	Significant improvement	Some improvement	No change	Some deterioration	Significant deterioration	Don't know
Ident. of key environmental issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information exchange	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ident. of BAT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dev. of BAT conclusions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



4.9 Please provide further details to support your answers to the two questions above and any supporting evidence

The IED has seen a progressive increase tendency to base decisions on expert judgements, where no appropriate data is found to derive BAT-AELs. Connection to techniques has been lost.

BAT-AELs should always be set in relation to the sector/techniques/fuels/material used/product produced. They must be derived through a reasoned and transparent criterion, and not through a simplistic statistical analysis of data. It's important that the BREF guidance document are fully respected by the TWG

4.12. Does the BREF process sufficiently consider cross-media impacts (i.e. impacts on other environmental issues) in identifying the best available techniques?

All of the time	Most of the time	Some of the time	Rarely	Never	Do not know
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.13. Please provide further details to support your answers to the two questions above and any supporting evidence

Cross-media effects are used less and less. The TWG often tries to set the lowest BAT-AELs for all pollutants, without bearing in mind there are interlinkages, between CO and NOx, or between TVOC and energy.

4.14. To what extent do you think that the BREF process has been flexible and fast enough to respond to new or emerging environmental issues?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Do not know	Not applicable
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please provide further information to support your answer, where relevant, with specific examples e.g. where emerging pollutants and/or environmental impacts have been identified during the BREF process but could not be captured in the BAT Conclusions.

When the microplastics issue came up, it was included in the BREF.



6.1 To what extent do you think that the BAT conclusions are explicit and clear on monitoring requirements e.g. averaging periods:

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Do not know
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If neither agree nor disagree or disagree, please provide further details

Monitoring requirements have increased considerably in some cases due to implementation by MS, resulting in high costs. BAT conclusions increased requirements on individual emission components due to different interpretations.

6.2 To what extent do you think that industry reporting activities have been simplified under the IED compared to the situation under the IPCC and sectoral Directives?

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Do not know
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please provide further details, if relevant.

The IED provided an overall simplification of reporting activities, nonetheless it's linked to the implementation in different MS, and therefore the outcomes vary across the different countries.

7.2 Has the implementation of the IED led to a reduction in unnecessary administrative burden for industrial installation operators?

Yes	Neutral	No	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7.3 Please provide further information and evidence to support your answers, where relevant, including any estimated of administrative burden for your installation or sector

As stated before, implementation is different across the MS.



7.4 Are there significant differences in IED and BATC implementation between Member States for your sector?

Yes	No	Do not know
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For any identified differences in IED implementation between Member States for your sector, please provide further information on the root causes for these differences and any quantified information on how they affect the costs borne by your sector’s installation operators or impacts on environmental pollution

7.6. To what extent do you think that the IED has contributed to achieving a level playing field in the EU for your sector(s) by aligning environmental performance requirements for industrial installations (compared to the previous legislative regime of the IPPC Directive and sectoral Directives)

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If relevant, please provide, further details and evidence to support your answer.

It improved since the BREF was only a guidance to set a permit under the IPPC, whereas now BREFs are legally binding.

9.1 To what extent is the IED internally consistent and coherent among its chapters and provisions?

Extremely consistent	Very consistent	Moderately consistent	Slightly consistent	Not consistent	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If relevant, please provide details of any cases of overlaps, contradictions or other inconsistencies between provisions/requirements of the IED.



9.3 Are there any inconsistencies, contradictions, unnecessary duplication, overlap or missing links between provisions and activities listed in IED Annex I

Yes	No	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If yes, please provide further details.

9.5 To what extent does the IED contribute to the achievement of the objectives of the following EU environmental policy areas:

	Significant positive contribution	Some positive contribution	No contribution	Some negative contribution	Significant negative contribution	Do not know
Air quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Circular economy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waste management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sustainable use of resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chemical risks and hazards	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



9.6 Are there any cases of overlaps, contradiction or other inconsistencies between objectives and provisions/requirements of the IED and the following EU environmental policy areas?:

	Yes	No	Do not know
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Circular economy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Waste management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sustainable use of resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chemical risks and hazards	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Climate change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If relevant, please provide details of any possible overlaps, contradictions and/or inconsistencies as well as any changes that might be needed to better contribute to these objectives.

9.7 Are there any cases of overlaps, contradictions or other inconsistencies between objectives and provisions / requirements of the IED and Regulation (EC) 166/2006 establishing the European Pollutant Release and Transfer Register(E-PRTR)?

Yes	No	Do not know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If relevant, please provide details of any possible overlaps, contradictions and/or inconsistencies as well as any changes that might be needed to better contribute to these objectives.