

The proposal to revise the Industrial Emissions Directive (IED), framed under the Green Deal, aims not only at reducing pollution but also looks into new sectors, or areas such as resource efficiency or climate. Whilst the [Impact Assessment](#) sheds some light on the issues identified during the IED implementation, the reasons behind some of the suggested changes are not always clear. This position paper addresses some of these areas from a constructive perspective toward the development of a more efficient IED 2.0.

IMA-Europe acknowledges the objectives of the Green Deal and is committed to developing and implementing strategies to reduce the sector's environmental footprint. The industrial mineral sector is characterised by simple extractive and processing methods with a low environmental footprint. At the same time, industrial minerals contribute to several strategic green sectors, such as renewable energies, construction and building renovation, agriculture, soil and water treatment, and pollution abatement.

The COVID-19 crisis has shown that the progress toward sustainable development needs to be particularly aware of relocation risks faced by the EU industry. In parallel, the war in Ukraine also showed that the EU's economy is highly dependent on external factors. Therefore, the revised IED requires a balanced compromise between increasing the environmental ambition, efficiently investing efforts in those sectors with the highest environmental benefits and guaranteeing a crisis-proof framework for strategic sectors.

IMA-Europe welcomes some of the proposal's new elements, such as those supporting innovation and the use of emerging techniques. Yet, we would like to share some concerns regarding the following areas:

### **1. Scope enlargement:**

The proposed scope enlargement includes the extraction and processing of industrial minerals. This processing consists mainly of physical transformations (e.g. milling, sorting, drying), not implying chemical transformations, nor the generation of hazardous waste or significant emissions to soil, air (except dust) or water, which is the core competence of the IED. Dust emissions are already highly regulated at the occupational and ambient air levels. Other environmental impacts are very localised and already addressed through the Environmental Impact Assessments required for the mining/quarrying permits.

Including this sector under the IED would lead to a broad and vague BREF on extractive operations ([in addition to the existing Mining Waste BREF, under the Mining Waste Directive](#)). The European Commission's (EC) Impact Assessment recognised that mining is already regulated at national and EU-level, acknowledging that the eventual environmental benefits of applying IED are unclear and that these might even be outweighed by the implementation costs (p.144). The scope enlargement should be tailored to those sectors where the cost of implementing IED would deliver greater environmental benefits, making thus a better use of public resources and a smarter distribution of efforts across sectors.

For this reason, IMA-Europe proposes to exclude the naturally occurring substances from the scope of the IED<sup>1</sup>, in line with REACH Regulation. This would guarantee that the extraction and processing of minerals with low emissions levels would not need to undergo the costly implementation of the IED just for reducing dust emissions in mines/quarries, which are already addressed through existing EU legislation.

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<sup>1</sup> REACH definition Article 3 (39): Naturally occurring substances that are, as such, unprocessed or processed only by manual, mechanical or gravitational means; by dissolution in water; by flotation; by extraction with water; by steam distillation or by heating solely to remove water; or that are extracted from air by any means.

## 2. Transformation Plans:

Whilst ambitious in their objectives, the Transformation Plans (TP) proposed by the EC suffer from a severe lack of transparency and public participation. Only their title and objectives are described in the proposal, whilst their actual content or format are not disclosed. The EC aims to unilaterally develop the TP via an Implementing Act, a procedure which represents severe concerns for the long-term investment plans of operators.

A predictable regulatory framework is essential for fostering investment and innovation, as acknowledged in the EC's [Investment Plan for Europe](#). In contrast, the proposal implies that industry will be obliged to implement these large-scale strategies without having the chance to participate in their development, or discussing the effectiveness of the measures. Furthermore, the upcoming Corporate Sustainability Reporting Directive will already address these transformative changes, and it will be done at the company level, instead of at the installation level as proposed in the TP, which is a more adequate perspective.

For these reasons, IMA-Europe considers that this feature should be removed from the IED 2.0.

## 3. Stringent use of ELV ranges:

This might be the proposal's most controversial feature, affecting the IED Directive's structural functioning. It aims to establish operation permits using only the lower end of the ELVs ranges that the EC agreed with the Member States, the NGOs and industry during negotiations under the Sevilla process and endorsed by the Article 13 Forum.

It is essential to understand that the full range of ELVs in a BREF represents different manufacturing conditions and products that cover the market's diverse needs. Limiting these ELVs to a narrow range of values would limit in practice the products that EU producers would be allowed to produce, paving the way for imports from third countries with no/little environmental regulations.

In addition to the externalisation of our productive capacity, it is essential to look at this change from the right perspective regarding the BREF Revision process. If ELVs ranges are to be narrowed down, the discussions in the Sevilla process will consequently focus on this lower end, which would be undermining and limiting the technical discussions in the BREF derivation process.

IMA-Europe is actively engaged in the technical discussions under the Sevilla process and supports the use of ELV in its current form, rejecting an arbitrary and unilateral reduction of these ranges decided outside the Technical Working Group discussions.

## 4. Compensations and the burden of proof:

The proposal includes a feature with the potential to substantially disturb the normal functioning of the judiciary system by proposing that operators should prove their innocence in any event of pollution when any external party accuses them (e.g. not only a public authority but also any NGO).

This proposed change would pave the way for virtually never-ending judiciary processes in which operators would have to constantly invest in legal resources to avoid sanctions from authorities for situations that may not be linked to their operations.

IMA-Europe considers that this element would become a severe threat to all EU operators, and also public authorities, and judiciary systems. The overburdening of courts would lead to substantial delays not only in industrial files but would also overflow and impact other areas.