

# IOGP position on Industrial Emissions Directive (IED) revision proposal

**IOGP, the International Association of Oil and Gas Producers, whose Member Companies account for approximately 90% of oil and gas produced in Europe, supports the goals of the Paris Agreement and the EU's ambition to reach climate neutrality by 2050. We are committed to providing input and expert advice to the EU Institutions, Member State Governments, and the wider community, to contribute in a constructive and pro-active way to the development and implementation of the EU policies and regulations.**

We welcome the European Commission's draft proposal on the Industrial Emissions Directive (IED) published in April 2022. However, IOGP has identified several elements that would improve the proposal which we would like to present in this paper, streamline some aspects, and update it in line with the European Green Deal (EGD) objectives.

Some installations connected to oil and gas extraction activities are already in the scope of the IED due to their activity classification, mainly large combustion plants (e.g., steam boilers, cogeneration plants, gas turbines) and myriad other environmental regulations already cover the sector on international, national, and local levels.

We recommend the following improvements to the proposed draft IED:

## **1. It is essential that the adoption of any future delegated act is carried out in a manner consistent with the provisions of TFEU and the Better Regulation principles.**

We question the proposed delegation of power **to include new sectors** into the scope of the Directive. Under Article 290 of the Treaty on the Functioning of the European Union (TFEU), it is stated that "the essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power."

We believe that decisions on inclusion of an entire sector in the scope of IED would change an essential element of the Directive and therefore should not be subject of a delegation of power.

Furthermore, this limitation on the power of the European Commission to adopt delegated acts is reaffirmed in the Better Regulations Toolbox Tool Number 42.

## **2. Transformation plans should be at company level only.**

Under the current draft proposal, operators in oil and gas extraction activities would be required to develop transformation plans (TPs) only for specific installations covered under the IED, mainly large combustion plants (e.g., steam boilers, cogeneration plants, gas turbines). These installations are connected to other installations that are not covered by the IED. Therefore, these TPs would have to be treated in isolation, resulting in an inefficient approach which does not accurately reflect the broader progress of the company.



Transformation Plans at company level are more pragmatic, on the basis that changes to one installation will necessarily impact others that are connected to it. In the oil and gas extraction activities, it would be more effective to require TPs to be developed at company level, reflecting requirements already in place under the Corporate Sustainability Reporting Directive (CSRD)<sup>1</sup> and in line with the carefully considered approach already being implemented by some companies. Please consult Annex I for an overview of one such transformation plan at company level.

The proposed Transformation Plans under Article 27d should take into account the stringent regulations already applicable to the oil and gas exploration industry, and should ensure that duplication with other measures (CSRD) is avoided. Requirements from different pieces of legislation on the same subject will lead to lack of clarity, lack of legal certainty, and consequently a reduction in competitiveness of the EU industry and weakening the conditions necessary for long-term investment.

### **3. Publication of permits and environmental management systems: confidential business information needs to be protected.**

The proposed mandatory publication (online and without access restrictions) under Article 5 (4) of any authorization of an IED installation must exempt trade and business secrets and commercial sensitive information.

Approval notices usually contain detailed technical information on plant engineering and design (even including the listing of machines) and therefore the unrestricted availability of authorization content on the Internet as described in the proposal jeopardises the protection of intellectual and other intangible property of companies, including competitive disadvantages.

The same applies to the publication of environmental management systems (EMS), under Article 14a. EMS contain various internal information and data that can be classified as proprietary information and business secrets in relation to third parties, such as location details, organizational structures, functional delegations, procedures, or personal data of the responsible persons.

Data protection legislation requires that this information is by no means made public and accessible to everyone worldwide. It is not possible to maintain neutral versions of management systems for the purpose of publication.

The introduction of an Environmental Management System (EMS) for IED installations under Article 14a could create double regulation, as sufficient regulation on environmental management systems already exists under national law. Moreover, most of the European oil and gas companies already use such systems (ISO 14001, for example, and energy management standards such as ISO 50001). These are very often certified by independent expert organizations, so that there is a high degree of existing trust and commitment.

### **4. We strongly support maintenance of Article 9.1 which is necessary to enable the effective functioning of the EU ETS as a market-based tool for driving GHG emission reductions.**

In IOGP's view, the EU emissions trading scheme according to Directive 2003/87/EC already provides a sufficient incentive to reduce GHG emissions through GHG pricing.

The functioning and effectiveness of the EU ETS should not be affected by additional regulatory requirements. In our view, such requirements would constitute double regulation and would affect the flexibility of plant operators in planning investments and operating regimes.

IOGP is in favour of maintaining the existing derogation, under Art.9.1, for Member States, which makes it possible not to set emissions limit values for directive emissions of GHG for the activities listed in Annex I to Directive 2003/87/EC in relation to combustion units or other units on site that emit greenhouse gases.

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<sup>1</sup> The revised Corporate Sustainability Reporting Directive (2013/34/EU) already will require companies to provide information regarding the impacts on sustainability matters and in particular to ensure that its business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5 °C in line with the Paris Agreement.

## Annex I – Example of Transformation Plan at company level

### TotalEnergies

As a multi-energy company, TotalEnergies works every day to reconcile the three dimensions of energy: security of supply, price, and climate change. To address it, we aim to satisfy a global growing energy demand at affordable price, with less and less emission and an imperative of climate neutrality.

Among the initiatives to address this challenge, and as an example of the transformation plan at Company level, a Carbon Footprint Reduction initiative has been kicked off for each business branch. The objective is to reduce TotalEnergies' Scope 1 and 2 emissions by at least 40% in 2030 (vs 2015).

Within the exploration and production (EP) branch, a dedicated team was set up to support each business unit or affiliate in identifying and implementing on the ground initiatives.

For example, this team has promoted a process assessment method to be conducted for each site. The topics covered by this method are detailed below:

- Energy mapping
- Flaring mapping
- GHG emissions mapping
- Opportunities to reduce fuel gas consumption
- Opportunities to reduce flaring

It is important to note that for each entity, the initiatives are reported in both Long Term Plan (10 years) and Budget and are reviewed the highest management level.

If some actions are specific to an installation or a facility, the consistency of the plan shall be assessed at the entity level. Consider the example of TotalEnergies EP Denmark: the following initiatives, split by level, have been identified and have been implemented or are under implementation:

#### At installation level:

- Gas turbine air filtration system upgrade
- Digitalisation tool for energy efficiency management
- Reduction of compressor recycling

#### At facility level:

- Assessing emissions reduction opportunities by reducing the consumption of fuel gas for power generation through potential electrification of the installations
- Assessment of flare gas recovery opportunities
- Fugitives reduction

#### At entity level:

It is important to note that, like for most of the EP entities, the main lever to decrease emissions is to focus on power generation and consumption, as well as flaring reduction.

- Reinforcement of energy management system
- Reinforcement of energy efficiency

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