



Ms Anna Hubáčková

Chair of the EU Environment Council
Minister of Environment of the Czech Republic
Nábřeží Edvarda Beneše 4,
118 01 Prague 1
Czech Republic

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Dear Minister,

The upcoming Environment Council will discuss the EU position for COP27, the revision of the Industrial Emissions Directive and the Ecodesign for Sustainable Products Regulation proposal. I am pleased to share with you BusinessEurope key messages:

COP27

To safeguard our international credibility, EU policymakers should underline the EU's continued leadership on climate action by finalizing the work on the Fit for 55 files. At the same time, they must take every effort necessary to ensure a tailor-made package, given the historic challenges and extraordinary burden for European companies following to the Russian invasion in Ukraine. In addition to making progress at home, there needs to be more convergence on ambition with our international partners. The EU should actively engage on finance for adaptation and mitigation at COP27 in order to unlock further commitments on ambition. Closing the remaining ambition gaps with non-EU countries is without alternative. Finally, true progress is needed regarding the implementation of mechanisms under Article 6 of the Paris Agreement to combat global climate change.

Revision of the Industrial Emissions Directive (IED)

We welcome the intentions of the revision to support the industrial transformation for delivering the long-term objectives of the EU Green Deal. However, in its current form, the proposal does not reach this objective and risks going into the opposite direction as creating additional hurdles, generating uncertainties, and leading to disproportionate costs.

In particular, the following requirements are matters of concerns.

- Setting permit conditions systematically at the strictest level of the BAT AEL range is technically impossible. In addition, this will require competent authorities to review a high number of feasibility assessments which would lead to permit delays. It will therefore be key to maintain AEL ranges for granting permits and clarify the date of application.
- Making environmental performance limit values binding would undermine the ongoing industrial transformation and innovation. These values do not capture the specificities from different products and processes of certain types of installations and the specific



circumstances in which they operate. In addition, due to cross media effects, this new provision does not necessarily lead to environmental benefits.

- Maintaining the existing provision that avoids overlaps with the ETS Directive guarantees legal certainties and proportionality.
- Setting up a complex and inflexible environmental management system (EMS) in IED would only increase the reporting and assessment costs, while not bringing clear additional environmental benefits. An EMS depends on nature, scale and complexity of the installation and is already regulated under existing BAT conclusions and other legislations.
- Requiring transformation plans for each industrial installation only provides fragmented and misleading information, while obliging operators to disclose commercially sensitive information. Other legislations (e.g. CSRD or Taxonomy) are better suited to support investments into clean, circular and climate neutral activities.
- Setting provisions for the testing and deployment of emerging and innovative techniques has the potential to support innovation. However, to fully unleash this potential, it will be essential to set a clear and solid legal framework for operators.
- Allowing environmental NGOs (beyond national authorities) to access confidential business information or commercially sensitive information puts industry representatives at a disadvantage. While this change is not necessary for the functioning of the Sevilla process, it only would undermine trade secrets and IPRs.
- Allowing NGOs to represent citizens in collective actions before civil courts relieving them from the obligation to demonstrate the causal link between the health damage and the permit violation would lead to abusive litigation and undermine the “innocent until proven guilty” principle. The proposed penalties and damage redress systems fail to be proportionate to the nature and seriousness of the illegal conduct without ensuring that those affected are properly represented.

Proposal for a Ecodesign Sustainable Products Regulation (ESPR)

The ESPR proposal rightly maintains the principles of the current Ecodesign Directive, which has proven to be effective, including setting tailored requirements per product group. In addition, the decision to turn the Directive into a Regulation removes existing current inconsistencies between the EU and the national levels, thus strengthening the functioning of the Single Market and improving industrial competitiveness and resilience.

In 10 specific areas, the proposal needs further work for better enforceability:

- Define products to be prioritised according to their environmental and economic potentials to strategically improve EU’s resource efficiency.
- Set up comprehensive assessments based on impact focused LCA approach for the development of ecodesign requirements and ensure that set requirements do not hamper technical development and innovation.
- Ensure policy coherency of scope and requirements between the ESPR and other EU legislations.
- Require information on substances of concern based on their relevance, usefulness and information demand in the value chain.



- Set up a Digital Product Passport which is strictly relevant to circular economy purposes, protects confidential business information and relies on good quality, consistent, comparable and interoperable data.
- Establish a strong inclusion of key stakeholders, notably from the industry, in the upcoming policy making process. In this process, it will also be essential to consider SMEs' needs and potentials.
- Base performance requirements and compliance assessment methods on harmonised European or international standards. The Commission should issue common specifications only in exceptional instances.
- Avoid requiring third-party conformity assessments, as unnecessarily and costly.
- Gradually implement requirements on destruction of unsold goods.
- For legal clarity, harmonise definitions with existing legislations and initiatives.

We stand ready to discuss the two proposals further in detail.

Yours sincerely,

Markus J. Beyrer