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Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments

EIGA (European Industrial Gases Association) welcomes the fact that the draft directive as published shows a strong understanding of the importance of a level playing field for outsourced (versus captive) production of vital industrial gases such as hydrogen, syngas, oxygen and nitrogen.

Sustaining the outsourcing business model is not only vital to EIGA members' business interests but also brings demonstrable benefits to European manufacturing industry, both in terms of its environmental performance (reducing greenhouse gas emissions in Europe) and its economic performance.

However, on examining the draft document EIGA is concerned that there could be an apparent inconsistency between and within the proposed texts of Articles 10a & 10b. In 10a, the importance of a level playing field is emphasised for the *setting of benchmarks* for aromatics, hydrogen and syngas across the refining and chemicals sectors (note that industrial gases - including hydrogen - are formally considered to be a part of the chemicals industry). This statement in Article 10a can be interpreted as at least partially consistent with Article 10b where it is proposed in Paragraphs 1 and 2 that sectors *and subsectors* be assessed either quantitatively or qualitatively for *exposure to carbon leakage* taking into account a coefficient derived from multiplying their emission-intensity and trade-intensity.

In contrast however, Paragraph 4 of Article 10b of the draft text calls for a delegated act to be adopted under which activities will be assessed for carbon leakage exposure by the "0.2 test" ONLY to be applied at *NACE-4 level* (i.e. a *sectoral* but not a *subsectoral* assessment). Industrial gases – which appear at NACE-4 level - represent a heterogeneous sector which overall cannot meet the "0.2 test" and which indeed is currently not recognised as "exposed" under Phase 3 of the ETS.

Production of *specific* industrial gases - hydrogen, syngas, oxygen and nitrogen - contributes substantially to the energy exposure of sectors likely to be assessed as exposed to carbon leakage in Phase 4 e.g. petrochemicals, refining and steel. It is with these *specific* emission-intensive industrial gases that the risk to the level playing field exists - and where distortion is possible between the chemical and refining sector - yet these activities appear to be excluded from assessment for exposure to carbon leakage, appearing as they do only at *subsectoral* (Prodcom) level.

EIGA will be engaging with the Commission to resolve this apparent inconsistency. In this effort EIGA will be joined by representatives of the refining and chemicals sectors which also recognise the apparent threat to the outsourcing model (with its contribution to reducing greenhouse gas emissions in Europe), the danger of cross-sectoral distortions *and* the significance of the costs of hydrogen, syngas, oxygen and nitrogen production in their supply chains.

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About EIGA

The European Industrial Gases Association, EIGA, is a safety and technically oriented organization representing the vast majority of European and a number of non-European companies producing and distributing Industrial, Medicinal and Food Gases. Its members include leading companies with a strong European footprint including Air Liquide, Air Products, Linde Group, Messer Group, Praxair and Gruppo SOL as well as national trade associations.

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