

Proposal for a Net Zero Industry Act

Recommendations for the way forward

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Implementing the EU's Green Deal Industrial Plan for the Net Zero Age

Europe has arrived at a critical junction in terms of its attractiveness as a business location. Not only will the energy crisis continue to place massive strains on companies of all sizes and sectors and their global competitiveness. Europe is also facing harsh competition in the global climate technology race, such as through the U.S. investment programme Inflation Reduction Act or the Chinese Belt and Road Initiative, which stretches our industrial capacity and severely increases the risk of replacing our dependence on fossil fuels by industrial and technological dependence in the future.

With a view to enhancing Europe's competitiveness and support the fast transition to climate neutrality, the BDI generally welcomes the EU Green Deal Industrial Plan (GDIP) as tabled by the European Commission in February 2023 and its subsequent Proposal for a Regulation on Establishing a Framework of Measures for Strengthening Europe's Net-Zero Technology Products Manufacturing Ecosystem ("Net Zero Industry Act").

However, to turn into a solid response to imminent geopolitical and competitiveness challenges while boosting Europe's global Green Deal innovation and technology leadership as well as a climate-neutral European industrial continent by 2050, significant improvements still have to be brought to the Commission proposal for a Net Zero Industry Act ("NZIA").

This position paper spells out the initial evaluation and recommendations of German industries for the way forward on the Commission NZIA proposal.

In particular, reaching climate neutrality requires the transformation of the entire industry rather than a number of selected sectors "only", which has also been demonstrated in BDI's climate path study 2.0.

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BDI's 10 Key Messages on Commission proposal for a Net Zero Industry Act

1. **Europe has reached a critical turning point in terms of its attractiveness as a business location:** In view of the energy crisis and the tough global race for best climate technologies (IRA, Belt and Road Initiative), the risk of overstretched, European industrial capacities and thus the risk of replacing dependence on fossil fuels with industrial and technological dependence in the future is real: The BDI generally welcomes the presentation of the Green Deal Industrial Plan (GDIP) and the Net-Zero Industry Act (NZIA) as urgently needed measures to underpin the EU's Green Deal ambitions, which have so far focused on climate and environmental policy. It is essential to create clear framework conditions and establish a consistent, well-synchronised, competition-oriented regulatory framework.
2. **The potential of NZIA has not been fully explored:** The regulation provides for streamlined administrative and authorisation processes in around ten (strategic) net-zero technology fields, as well as complementary measures regarding the qualification of workers and market access, in particular via new sustainability and resilience criteria in public tenders and auctions. This is essential in terms of the EU's strategic sovereignty, but due to the limitation to certain net-zero technologies, it is not sufficient - neither for the acceleration of decarbonisation nor for investment incentives on a broad front.
3. **Europe must not turn into a continent of two speeds:** The new pace that pushes the expansion of renewable energies must also apply to industrial plants (including the steel and chemical industries) and the decarbonisation of all modes of transport. The success of the ambitious goals of the energy transition requires not only the construction of renewables or energy grids, but also the market-based transformation of the entire industry. Ultimately, the economy as a whole is affected and must also be able to generate the economic basis in the future. This requires growth and not redistribution. Every change in production and every renewal of infrastructure needs approval. The procedures required for this must run faster.
4. **NZIA should establish a true value chain approach:** Compared to previous considerations, the definition of NZT has been expanded to include Renewable Fuels of Non Biological Origin (RFNBOs) and sustainable alternative fuels within the scope of the NZIA. While the extension of the scope is welcome, alternative fuel technologies are insufficiently reflected in the Annex. Coherence with the EU Renewable Energies Directive (RED) should definitely be ensured. In addition, NZIA opens up for a value chain approach through the inclusion and definition of "components" and "machinery" for NZT. However, the definition of "components" still needs to be improved and should in particular also cover intermediate components, primary products and raw materials. Ideally, NZIA should accelerate procedures for all industrial processes (beyond NZT and their value chains). NZIA remains focused on reducing Europe's existing import dependency in identified NZT, strengthening Europe's resilience and energy security, geostrategic interests and potentials in the global NZT technology race in light of the EU climate and energy system transformation and the energy crisis. Investment conditions for NZT needs to be further improved, the administrative burden reduced and their market access simplified.
5. **Speeding up permitting is the right focus, however, deadlines need to accelerate further:** NZIA sets **approval deadlines** for all NZT projects at 12-18 months or 6-9 months for capacity expansions of existing plants. There is no fictitious approval after the expiry of the deadline. For strategic NZT projects, the proposal suggests further shortened deadlines (9-12 months for strategic production projects or 4.5-6 months for capacity expansions of existing production facilities;

18 months for strategic CO₂ storage projects) and a fictitious approval, which, however, does not apply if parallel Environmental Impact Assessments (EIAs) have not been completed (article 13.4). The planned tightening of the Industrial Emissions Directive and the Air Quality Directive risk destroying any attempt of acceleration without ensuring the necessary flexibility for industrial transformation. Finally, while public consultation periods are shortened, other rights (including rights of taking legal action) are retained in their present form.

6. **One-stop-shops, shortened decision-making deadlines, more suitable tender designs, electronic document transmission and coordinated environmental impact assessments as a means of speeding up procedures** are welcome but require shaping: the proposed deadlines in particular remain far too long compared to deadlines applicable in Germany and a coordinated EIA assessment is already standard procedure in Germany. The acceleration of procedures should not be undermined by new bureaucratic requirements or newly introduced interfaces.
7. **Capacity benchmarks and sector specific targets are a good step in the right direction but require concrete measures to rapidly translate into action:** The Act provides a general 40% manufacturing capacity benchmark for strategic NZT for 2030 and lists the following non-binding technology-specific 2030 targets for manufacturers of five strategic NZT. These provide a clear political commitment to complement the EU Green Deal environmental ambition with an industrial ambition. However, any benchmarks and targets need to be backed by clear and timely actions and measures, including roadmaps. In this respect NZIA widely falls behind the necessary.
8. **Indicative market share targets would be difficult.** A direct and immediate reduction of import shares from autocracies as a whole or from China in particular would be WTO-incompatible and thus not an EU instrument (import quotas are not permissible). Diversification among democracies seems preferable but would have to be negotiated and agreed multilaterally to avoid further fragmentation of the multilateral system of the World Trade Organisation (WTO) with the aim of supposedly "safe trade". Multilateral trade agreements remain the preferred goal for German industry. While the WTO is in crisis, there is still room for manoeuvre. The EU should lead initiatives that focus on plurilateral agreements within the WTO, address the challenge of trade-distorting subsidies and tackle issues concerning the Dispute Settlement Body in coordination with the United States. Meanwhile, the EU is taking the step of setting a **non-binding EU benchmark and indicative technology-specific capacity targets**. These are quite useful for the design and dimensioning of support measures and as a signal to investors. Moreover, they are a clear policy commitment to the need to expand industrial production in Europe, which is essential to increase the resilience of the European economy.
9. **The financing of the ambitious goals remains a puzzle.** The use of existing EU and Member State funding instruments to achieve the targets is still included in the proposal, as is the idea of providing new sources through a sovereignty fund. Support measures via the new **Temporary Crisis and Transition Framework (TCTF)** are possible for certain strategic net-zero technologies listed in the TCTF but must be financed from national budgets. Overall, both REPowerEU and the more specific targets in the Green Deal Industrial Plan or the Net Zero Industrial Regulation lack a comprehensive financing strategy for areas where the corresponding investments will not occur without support. However, a clear cost and demand estimate would be urgently needed. This applies to both, the EU level and the national efforts, which should be brought together in an overall tableau. In the implementation of the EU Hydrogen Bank, the idea of a national "top up" of the budget of the auctions should be pursued vigorously. This is because the financial resources available to the EU are far from sufficient to noticeably accelerate the hydrogen market ramp-up.

10. **NZIA does not stand alone as a response to the IRA and the energy crisis: it must go hand in hand with a workable TCTF to mitigate the still-relevant locational disadvantage of high energy prices, as well as a reliable EU commodity policy (especially via the new Critical Raw Materials Act (CRM-A) and further Free Trade Agreements) and a sound financing strategy.** Without ensuring reliable access to the raw materials and components necessary to produce Net Zero technologies, the 40% capacity benchmark and technology-specific capacity targets for 2030 cannot be realised. In contrast, a far-reaching reform of the EU electricity market design is not necessary in the short term - it would increase both legal and investment uncertainty at this critical juncture. What is needed for successful decarbonisation of industry, however, are internationally competitive electricity prices for industry. Targeted solutions must ensure the availability of sufficient quantities of renewable electricity at internationally competitive prices.

Detailed comments on the draft NZIA and recommendations for the way forward

1. Subject matter (article 1 NZIA)

The purpose of the proposed regulation is to establish an EU legal framework for measures to innovate and develop manufacturing capacity for net-zero technologies (NZZT) in the Union in support of the EU's 2030 climate target of -55% GHG emissions and in support of the EU's access to safe and sustainable NZZT for maintaining the resilience of the EU energy system and creating skilled jobs.

BDI evaluation and recommendation:

- *The BDI generally welcomes the presentation of the Green Deal Industrial Plan (GDIP) and the Net-Zero Industry Act (NZIA) as urgently needed measures to underpin the EU's Green Deal ambitions. So far, these have focused on climate and environmental policy. It is essential to create clear framework conditions and establish a consistent, well-synchronised, competition-oriented regulatory framework to boost Europe's competitiveness and overall attractiveness as an industrial location.*

2. Scope and definitions (articles 3, 10 and annex I)

The NZIA legal framework is based on seven key pillars:

- Pillar 1: Setting conditions for the promotion of strategic projects for NZZT and streamlining administrative and approval procedures
- Pillar 2: Defining the conditions for increasing CO2 storage capacities
- Pillar 3: Creating incentives for NZZT demand
- Pillar 4: Ensuring the required skilled workforce
- Pillar 5: Promoting innovation (via regulatory sandboxes)
- Pillar 6: Creation of a governance structure (introduction of a Net Zero platform, consideration of NZIA in national energy and climate plans).
- Pillar 7: Establishing a framework for monitoring implementation

BDI evaluation and recommendation:

- *BDI takes a generally positive stance regarding the proposed seven NZIA pillars. However, to turn NZIA into a true game changer, it would have been essential to remove excessive regulatory and administrative reporting burden on companies by addressing the excessive regulatory density of EU environmental regulation and its impact the duration of planning, permitting*

and environmental impact assessment procedures. Therefore, NZIA's potential to speed up investment unfortunately remains limited today.

NZIA distinguishes between "Net Zero Technologies (NZT)", "Strategic Net Zero Technologies (SNZT)" and "innovative Net Zero Technologies (INZT)":

- Net Zero technologies (NZT) are defined in Art.3.1 as "IEA Technology Maturity Level 8 technologies for renewable energy, electricity and heat storage technologies, heat pumps, grid technologies, renewable fuels technologies of non-biological origin (RFNBOs), sustainable alternative fuels technologies, electrolysers and fuel cells, advanced technologies for energy production from core processes with minimal waste from the fuel cycle, small modular reactors and associated premium fuels, carbon capture, utilisation and storage technologies, energy system energy efficiency technologies. They refer to the end products, specific components and specific machinery mainly used for the production of these products".
- "Components" are defined as "a small part of a net zero technology that is manufactured and traded by a company starting from processed materials".
- Strategic NZT are listed in Annex I: "Solar photovoltaic and solar thermal technologies, On-shore wind and offshore renewable technologies, Battery/storage technologies, Heat pumps and geothermal energy technologies, Electrolysers and fuel cells, Sustainable biogas/biomethane technologies, CCS, grid technologies".
- Strategic NZTs, if recognised as a strategic NZT project, can receive further procedural facilitation and better access to funding.
- Innovative NZT are defined as "NZT below an IEA technology maturity level 8".
- Member States may recognise strategic NZT projects for the sectors listed in Annex I if the criteria of article 10 are met. Projects that benefit from the Innovation Fund under the EU Emission Trading System (ETS) or are part of an IPCEI, the EU Hydrogen Valleys or Hydrogen Bank shall in any case be recognised as strategic NZT projects (article 10.4).

BDI evaluation and recommendations:

- *Compared to previous drafts, BDI observes important positive developments. In particular, the definition of NZT has been broadened to include RFNBOs and sustainable alternative fuels in the scope of the NZIA with a reference in the footnotes to RED III, ReFuelEU Aviation and FuelEU Maritime. Another improvement would be the inclusion of RFNBOs and SAF (Sustainable Alternative Fuels) in the Annex to achieve parity with other strategic NZT, as well as a reference to REDIII in both footnote 66 and 67. Furthermore, Annex I should also cover CCU in addition to CCS.*
- *NZIA should refer to industrial value chains as a whole and therefore an annex as broad as possible would be necessary. By including and defining "components" and "machinery", a value chain approach has now been introduced into the NZIA for NZT in any case, which should eliminate the risk of different speeds in planning/approval procedures for NZT. However, the definition of "components" still needs to be improved and in particular also cover intermediate components, primary products and raw materials. The BDI supports the exemption of raw materials that fall within the scope of the CRMA.*

- *The successful decarbonisation of Europe cannot be achieved without a recognition of inter-dependencies between value chains. Therefore, the deployment of net-zero technologies and value chains making use of these technologies must be under the scope of this Regulation for “net-zero strategic projects” and for “net-zero technology manufacturing projects”.*
- *Fundamentally, in light of the EU climate and energy system transformation and the energy crisis, the NZIA remains focused on reducing Europe's existing import dependency in the identified NZT, strengthening Europe's resilience and energy security, geostrategic interests and potentials in the global net-zero technology race. Investment conditions for NZT are to be improved, the administrative burden reduced and their market access simplified.*
- *NZT can benefit from the following NZIA measures: One stop shops, online access to information, faster approvals, regulatory sandboxes and measures for skilled workers.*
- *Strategic NZT can benefit from further NZIA measures: simplified market access via sustainability and resilience criteria in public auctions, public procurement and other public schemes; the possibility to be recognised as a strategic NZT project and benefit from further administrative simplifications (preservation of priority status in the approval process, approval period shortened to 9-12 months, support via private crowd-in private investment, coordination of funding via new Net-Zero Europe platform).*
- *Finally, BDI shares the view taken in the Commission proposal that projects that benefit from the ETS Innovation Fund or are part of an IPCEI, the EU Hydrogen Valleys or Hydrogen Bank should indeed be recognised by the Member States as strategic NZT projects.*

3. Manufacturing capacity benchmark and 2030 sector targets (articles 1.2, 1.3 and 3.1s)

NZIA proposes in article 1.2 a general 40% manufacturing capacity benchmark for strategic NZT for 2030. In addition, recital 17 lists the following non-binding technology-specific 2030 targets for the producers of five strategic NZT:

- At least 30GW operational solar PV manufacturing capacity across the PV value chain
- At least 36GW wind turbine manufacturing capacity
- At least 31GW heat pump manufacturing capacity
- At least 550 GWh battery manufacturing capacity (=90% of annual EU battery demand).
- An installed electrolyser capacity for the production of at least 100GW of hydrogen (in implementation of the EU H2 targets of 10 million tonnes of domestic production of renewable hydrogen).

"Manufacturing capacity" is defined as "the total output capacity of NZT in the context of a manufacturing project" and always related to final product (article 3.1.s).

Furthermore, the proposal suggests empowering the Commission to evaluate the feasibility and proportionality of further measures in case of risk of failure to achieve the objectives (article 1.3).

BDI evaluation and recommendations:

- *Contrary to earlier discussions, NZIA no longer introduces a binding capacity target, but sets a general, non-binding policy benchmark and backs the benchmark with indicative technology-specific targets: this may be seen as a weakening of the initially envisioned ambition and*

nature of the original target, however, level and scope of the benchmark and sector specific targets remain very ambitious (e.g. 90% battery capacity target or 100GW hydrogen electrolysis capacity).

- *To realise the benchmark/technology-specific goals, the necessary framework conditions must be created. Europe as an industrial location urgently needs to become more attractive through clear framework conditions, such as:*
 - *The acceleration of planning, approval and environmental impact assessment procedures across the board (see also BDI comments on Chapter II of NZIA).*
 - *Ensuring access to the raw materials and components necessary for the production of NZT (which are often not mined or produced in Europe).*
 - *Competitive electricity prices in the EU.*

- *Therefore, a good synchronisation of the NZIA with the other GDIP initiatives and consistency with other existing regulations, such as Fit -for-55, REPowerEU or ongoing legislative initiatives is essential:*
 - *Shortcomings in chapter 2.4 of the TCTF need to be ironed out (EBITDA criteria, Annex I sector list, ceilings) and allow for NZIA Annex I sector subsidies.*
 - *The CRMA and other FTAs must be developed consistently as central pillars of a sound EU commodity policy and diplomacy.*
 - *The EU electricity market reform must not undermine the foundations of the existing market design and the liberalised European electricity market. However, internationally competitive electricity prices for industry are needed. Targeted solutions must ensure the availability of sufficient quantities of renewable electricity at competitive prices.*
 - *The planned tightening of the Industrial Emissions Directive and the Air Quality Directive must not undermine NZIA targets and acceleration attempts.*

4. Streamlined administrative and approval processes (articles 4-9)

The Commission has tabled the following streamlining proposals:

- One Stop Shop (article 4): Establishment of a "sole point of contact" for project promoters, which is the designated competent national authority responsible for coordinating the authorisation process. This single point should coordinate the submission of all relevant documents and information and ensure easy access to information and simple procedures for dispute resolution regarding the authorisation process. All documents shall be able to be submitted electronically.

- Online access to information (article 5): Member States should make information on the approval process, financing and investment services, national and EU funding opportunities and business support services (such as on company tax, local tax or labour law) centrally and easily accessible online.

- Duration of the approval process (article 6):
 - 12-18 months for NZT construction projects below/above an annual production capacity of 1 GW
 - 6-9 months in case of capacity expansions of existing plants
 - 1-month extension of these deadlines (to 7-19 months) possible in exceptional cases due to the nature, complexity, location or size of the project

- 6-month extension of these basic periods (to 12-24 months) in exceptional cases due to health and safety issues of workers
 - The time limits shall apply without prejudice to administrative or judicial dispute proceedings.
 - Existing shorter deadlines in Member States may be maintained.
- Environmental assessment procedures and authorisations (article 7):
 - Introduction of a coordinated or joint EIA (article 7.2) if EIAs are to be carried out under different EU legislation (namely EIA Directive 2011/92/EU, Habitats Directive 92/43/EEC, Birds Directive 2009/147/EC, Water Framework Directive 2000/60/EC, Environmental Impact Plans and Programmes Directive 2001/42/EC, Waste Directive 2008/98/EC, IED Directive 2010/75/EU or Hazardous Substances Directive 2012/18/EU) - there should be only one assessment for the applicable EU legislation.
 - Limitation of the public consultation to 45 days is suggested.
 - Planning procedure (article 8): Member States should take NZT projects into account in planning and give them priority in certain cases; introduction of a combined EIA of the Habitats Directive 92/43/EEC and the Environmental Impact Plans and Programmes Directive 2001/42/EC and, where appropriate, the Water Framework Directive 2000/60/EC (article 8.2)
 - Applicability of the UN-ECE Conventions (article 9): Citizen participation, information and complaint rights remain unaffected by the NZIA
 - Protection of secret information (article 36): Information received shall be used only for the purpose of the NZIA; trade and business secrets and other sensitive, secret or classified information shall be protected.

BDI evaluation and recommendations:

- *Overall, the BDI comes to a mixed assessment of the proposed streamlining: The introduction of a "sole contact point/one stop shop" for companies is welcome in principle, but the establishment of an additional coordinating authority for the approval is to be rejected, as this would lead to a further interface in the approval processes. The lead regional authority will not be able to hand over the procedure and will thus have to deal with and coordinate not only with subordinate specialist authorities, but in future also with a federal authority. This risks further delays rather than acceleration.*
- *The possibility of electronic transmission of all documents is positive. The improved online access to information on administrative procedures is also welcome in terms of efficiency gains and transparency.*
- *Shortening the duration of approval procedures is in principle a correct step, but the deadlines are too long from a German point of view: in the national transposition law, the German BIm-SchG, approval deadlines of 3 or 7 months apply, while NZIA proposes 12 and 18 months or 6-9 months for capacity expansions as of the completeness of the application documents.*
- *Art. 7.2 is already applied in this way in Germany and is therefore supported. BDI also recommends supporting article 36 regarding the protection of secret information.*

- *Restricting the acceleration of approval procedures to NZT as end-product projects would be too short-sighted for a successful transformation to a climate-neutral industrial continent: it should be clarified (via the definition of components) that the acceleration rules apply to the entire NZT value chain, including for intermediate products and basic materials.*
- *Ideally, the NZIA should speed up procedures for all industrial processes (beyond NZT and their value chains), because in general Europe must not become the continent of two speeds. The new pace that pushes the expansion of renewable energies must also apply to industrial plants. To achieve the nat. climate change targets for 2030, as many GHG emissions must be saved in the entire industrial sector as road transport must contribute by switching to new drive systems and using greener fuels.*
- *NZIA shortens certain consultation periods for the public, however, other rights (including rights for taking legal action, article 9) are retained without further streamlining. Public participation rights, information rights and rights of legal action should be addressed to tap the acceleration potential.*

5. Strategic Net Zero Technology Projects (articles 10-15):

According to the Commission proposal, Member States should recognise projects as strategic NZT projects if the project either (1) contributes to the technological or industrial resilience of the EU energy system, or (2) the project has a positive impact on competitiveness and skilled job creation (for example, because it creates significant new capacity, produces technologies with improved sustainability performance, adopts extensive low-carbon and circular manufacturing practices, or serves to upskill/re-skill the workforce).

Also, it is suggested that projects that benefit from the ETS Innovation Fund or are part of an IPCEI, EU Hydrogen Valleys or Hydrogen Bank should in any case be recognised as strategic NZT project (article 10.4).

Article 11 addresses the application and recognition as a strategic NZT project: Project promoters have to submit an application to the Member States (decision deadline: 1 month; in case of no response, application is considered approved, Art.11.3); in case of rejection by the Member State, the application can be submitted to the EU-Commission and has to be assessed by it within 20 days. In case of divergent positions, the Net Zero platform shall discuss the project.

Furthermore, the Commission suggests that strategic NZT projects should be given priority status in the national planning and permitting process (article 12): strategic NZT projects to be considered to be in the public interest or may be considered to be in the predominantly public interest; all dispute resolution procedures would be treated as urgent.

NZIA suggests a further shortening of the duration of the approval process for strategic NZT projects to 9-18 months or 4.5-9 months in case of capacity expansion (article 13): in case of no response from the authorities within the given deadlines, the project shall be considered approved, unless the project is subject to an EIA under various EU legislations and these are not yet available.

As regards the acceleration of implementation (article 14), NZIA proposes that the Commission and Member States accelerate private crowd-in investment and can provide support for implementation.

Finally, funding is suggested to be coordinated (article 15): the new Net-Zero platform should discuss financial needs and bottlenecks and project promoters can seek advice from the platform regarding funding issues.

BDI evaluation and recommendations:

- *BDI recommends to generally support these proposals: BDI particularly stresses the importance of the provision that projects that benefit from the ETS Innovation Fund or are part of an IPCEI, the EU Hydrogen Valleys or Hydrogen Bank should in any case to be recognised by the Member States as strategic NZT projects (article 10.4). The proposal for a better coordination of funding and support for project promoters via the Net Zero platform is also a positive step.*
- *Article 13.4, however, requires further shaping: Delays in EIA undermine the proposed shortened approval periods. There is legal uncertainty. The addition "unless the project is subject to an EIA of various EU legislations and these are not yet available" needs to be adapted.*
- *Finally, a clear estimate of needs and costs is urgently needed. The BDI underlines the need for a comprehensible funding strategy with concrete amounts, which is urgently required for a response to the U.S. IRA.*

6. CO2 storage capacity (articles 16-17)

The Commission proposes to introduce an annual EU CO2 storage capacity target of 50 Mt CO2 as of 2030 (article 16).

Data regarding permitted CO2 storage areas by Member States should be published within three months after entry into force of the Regulation (article 17.1).

The draft NZIA also introduces a reporting obligation of the Member States to the Commission regarding ongoing CO2 capture projects and foresees a six months deadline starting after entry into force of the Regulation; article 17.2).

Also, mandatory contributions from authorised oil and gas producers are suggested to achieve the 50 million tonnes storage target (article 18): The mandatory individual contributions of affected companies are calculated pro-rata according to their share of EU-wide oil and gas production between 1.1.2020 and 31.12.2023. Within 12 months, affected companies must submit a report to the Commission on how they intend to achieve their contribution. The Commission would be empowered to adopt delegated acts for implementation.

BDI evaluation and recommendation:

- *BDI welcomes the emphasis placed on a new CO2 storage capacity target and the proposed obligation for Member States to designate data on suitable storage sites. The newly proposed CO2 injection capacity target and obligation for Member States to designate data on suitable storage sites promotes CO2 capture that is needed to meet the EU climate targets. Both, the International Panel for Climate Change (IPCC) and the International Energy Agency (IEA) have examined how the agreed targets of limiting global warming below 2°C and, if possible, to*

1.5°C.¹ In this context, both have confirmed the important role of actively removing CO₂ from the atmosphere and applying carbon capture and storage (CCS) as well as carbon capture and utilization (CCU). Hence, CCU should be listed in annex I as strategic net zero technology in addition to CCS.

- However, deposits should not be limited to abandoned oil and gas fields. The NZIA should also be amended to reflect an integrated approach to driving investment in CCS along the whole value chain of capture, transport and storage. Complementary measures need to ensure the development of CO₂ capture and transport is commensurate and in synchronisation with the injection capacity obligation. By focusing only on storage development, the proposal does not recognise, for example, that decisions to capture CO₂ at an industrial facility consider the integrated cost of capture, transport and storage.

7. Market access (articles 19-22)

According to the Commission proposal, net-zero technologies should be taken into account in public procurement (article 19), in auctions for the use of renewable energies (article 20) and in other forms of public intervention, such as support programmes for households and consumers (article 21).

NZIA also suggests introducing sustainability and resilience criteria, which are to be weighted at 15-30% for the award in the procurement procedure (article 19.3), evaluated in auctions for the expansion of renewable energies and weighted at 15-30% for the award (article 20.2). According to the Commission's proposal, additional costs of net zero technology products for public purchasers of more than 10% can be considered disproportionate.

Finally, article 22 promotes the coordination of market access initiatives: The Commission can, if necessary, provide guidance for the assessment of sustainability and resilience criteria. A "net-zero platform" can contribute to the exchange of best practices.

BDI evaluation and recommendations:

- The BDI considers the proposed provisions as predominantly positive. In particular:
- The BDI generally welcomes that the proposed NZIA stipulates that the principle of the most economically advantageous offer ("MEAT principle"), i.e.: not just the lowest price, must be observed for public procurement and that the best price-performance ratio must be taken into account.
- Such a procedure, which the BDI has been advocating for a long time, should also be increasingly applied in other area of public procurement. This procedure also makes it possible to consider the entire life cycle costs of a product for sustainable procurement.
- The proposed sustainability and resilience criteria require a level of environmental sustainability that goes beyond statutory minimum requirements. In view of the experiences from recent crises with supply bottlenecks, an increased emphasis on security of supply and the naming of indications for its consideration are in principle welcome. However, these have been partially

¹ See IPCC Sixth Assessment Report (2022) and IEA Net Zero by 2050 (2021)

reduced in comparison to previous drafts; in this respect, a - possibly modified - reintroduction should be considered.

- *However, there is a certain danger of the extension of the current framework and a targeted instrumentalisation of the afore-mentioned criteria to favour certain suppliers, also within the sphere of competition between European suppliers. In this respect, it should be made sufficiently clear that these criteria must not be used to undermine the functioning of the internal market, such as by discriminating against bids which fall in the scope of the EU Directives on public contracts and concessions.*
- *An intended exemption for cases of disproportionately high costs for contracting authorities seems acceptable in principle. However, additional costs of only 10 per cent should not be considered "disproportionately high" because this would restrict sustainable procurement too much.*
- *Announced guidance from the Commission on criteria for determining the contribution to resilience and sustainability is to be welcomed. An intended listing of products in the sense of net-zero technology can also be helpful. However, the circle of products covered by the new legal act should be defined more broadly than currently envisaged. The creation of a "net zero platform" to discuss measures taken by EU member states in this regard and to exchange best practices is welcome.*

8. Regulatory sandboxes (article 26-27)

To boost innovation the Commission proposes to introduce regulatory sandboxes (articles 26-27).

BDI evaluation and recommendation:

- *While there is generally a positive appreciation of introducing regulatory sandboxes, the provision would apply only for a limited time before innovative NZT (with IEA technology readiness level below 8). The real issue right now is technology deployment.*
- *The European Commission will publish a guidance for sandboxes later in 2023 to support Member States in their implementation. In addition, it is important to keep flexibility in the design and implementation of sandboxes to make them an effective instrument. It is therefore uncertain whether the proposed implementing act would bring clear added value.*

9. Governance (articles 30-31)

The proposal for a NZIA contains the following governance provisions:

- The proposal to establish a new Net-Zero Europe Platform (articles 30-31), consisting of Member States and EU-Commission. Members of the European Parliament would be invited as observers. External experts (industry representatives) may be invited "where appropriate", on an ad-hoc basis.
- Provisions regarding the tasks of the new platform: Supporting the Commission and Member States in the implementation of NZIA, coordinating and monitoring the achievement of capacity targets, promoting cross-border relationships of Nzt- companies, monitoring NZT value chains with a view to the EU's energy independence goal.

BDI evaluation and recommendations:

- *In BDI's view, it is important to clarify and differentiate the NZIA platform from already existing alliances, such as battery or hydrogen alliance, as otherwise the added value of the platform is questionable and overlaps are possible.*
- *Given the need for strong public-private partnerships for a successful implementation of the NZIA, it is important to have a structured public-private dialogue at EU level. It is therefore important that economic operators' representatives, including industry representatives and social partners are involved in the Net-Zero Europe Platform.*

10. Final provisions (articles 32-38)

Finally, NZIA contains provisions regarding the delegation of comitology powers (articles 32-34).

It also suggests an evaluation of the Regulation after three years and the submission of a report to EP, Council and ECOSOC (article 35).

The final NZIA would be directly applicable in EU Member States, thus would require no national transposition (article 38).

BDI evaluation and recommendations:

- *We observe that the delegated comitology powers would remain limited to the implementation of the new CO2 storage target. A possible expiry of the regulation already after three years (thus before 2030) does not create investment security.*
- *The direct applicability of NZIA in EU Member States fosters harmonisation and accelerates implementation. It should therefore be supported.*

Conclusions

Global competition for capturing private investments in the production of clean technologies is rising sharply. It is positive that major economies worldwide step-up efforts, as reaching the Paris Agreement calls for much stronger collective efforts at a faster pace. The US Inflation Reduction Act is one of the latest disruptive examples. However, stronger global competition must remain fair and not come at the expense of established international trade rules that provide legal certainty and protect economic operators against discrimination.

The Net-Zero Industry Act is an attempt by the European Commission to equip the EU with a policy adapted to this fast-moving and deep-competing global environment for investments in the production of clean technologies, where scale and speed are often decisive. This is an important first step, which should be followed up with a broader prioritisation of competitiveness in European policymaking, to stimulate the investments required to transition the entire economy towards net zero.

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