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Position Paper

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BDEW Position Paper on the EU Proposal for an Industrial Accelerator Act

The German Association of Energy and Water Industries (BDEW), Berlin, represents over 1,900 companies. The range of members stretches from local and communal through regional and up to national and international businesses. It represents around 90 percent of the electricity production, over 60 percent of local and district heating supply, 90 percent of natural gas, over 90 percent of energy grid as well as 80 percent of drinking water extraction as well as around a third of wastewater disposal in Germany.

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1 Executive Summary

BDEW supports the objectives of the Industrial Accelerator Act (IAA) to strengthen European production capacities, reduce strategic dependencies and increase the resilience of key value chains. For the energy sector, secure, diversified, and trustworthy supply chains, as well as unimpeded access to components, including those from non-EU countries, within the EU and in third countries, are a key prerequisite for security of supply, industrial decarbonization, and the success of the energy transition.

However, resilience must not be confused with complete independence from imports. What is needed, rather, is an open strategic sovereignty that combines the targeted build-up of European production capacities with internationally diversified supply chains and robust partnerships with equivalent¹ third countries. The IAA relies on demand-side instruments, in particular public procurement, auctions and support mechanisms linked to origin and sustainability requirements. These instruments can support industrial policy objectives, but they carry considerable risks for competition, costs, bureaucracy and the pace of expansion of renewable energy. **In BDEW's view, industrial policy objectives should primarily be pursued through investment incentives, support instruments, loan programs, tax incentives and direct support for European production capacities.** These measures strengthen the build-up of European value creation and prevent interference in existing procurement markets. **If industrial policy objectives are implemented primarily through public procurement and tenders, there is a risk of higher costs, additional bureaucratic burdens, distortions of competition and delays** in the expansion of renewable energy, energy storage, hydrogen and grid infrastructure. **BDEW firmly rejects additional procurement-law requirements for the energy industry.**

Public contracting authorities, including many energy utilities, are subject to extensive procurement-law requirements. If these are tightened further, there is a risk of market distortions as well as market shifts and supply shortages that will, in the medium term, work against affordable energy prices.

The IAA and the reform of public procurement law must be considered together in a coherent manner to prevent unduly burdensome requirements.

As a federal association representing more than 2,000 member companies from the energy, water and wastewater sectors, BDEW represents companies subject to a range of different procurement regimes, ranging from traditional public contracting authorities and sector-

¹ The term "equivalent third countries" refers to the approach set forth in the IAA, which calls for considering not only the European Union but also certain third countries with comparable trade and procurement standards. This includes, in particular, WTO-GPA member states as well as other partner countries that meet clearly defined criteria; see section 3.2.2 of this position paper.

specific contracting authorities to market participants not subject to public procurement regulations. Many BDEW member companies also participate as bidders in tendering procedures. BDEW members are thus affected by procurement regulations on both the contracting authority side and the bidder side.

The energy sector in Germany, in particular, is currently facing significant challenges as part of the energy transition and the shift toward a climate-neutral energy supply. This will require a total investment of approximately 721 billion euros by 2030. An additional 493 billion euros will be needed by 2035. Given these enormous investment sums, public procurement plays a particularly important role. From BDEW's perspective, it is therefore of fundamental importance that **procurement procedures serve primarily the goal of economical, efficient, and competitive procurement** and are not overburdened with additional political objectives that distort competition. Rather, public procurement law should be simplified to allow for greater flexibility. Moreover, a significant portion of the investments is made through tenders for funding for technologies or components covered by the IAA, a large proportion of which are imported from third countries. Given the significant importance of a rapidly advancing energy transition and the key role of a secure and cost-efficient energy supply, it is essential to find balanced solutions with regard to security requirements, reducing and avoiding one-sided dependencies on the one hand, and ensuring unhindered access to components, including those from non-EU countries, and maintaining the competitiveness of European companies in third countries on the other, alongside industrial policy approaches.

BDEW therefore advocates for a **targeted, practicable and minimally bureaucratic design of the IAA**. Additional requirements must be limited to security-relevant, system-critical or genuinely resilience-relevant components, provided with effective exemptions, and linked to market availability, competition and cost impacts. **The expansion of renewable energy, storage, green hydrogen production, hydrogen infrastructure and grids must not become more expensive or be delayed.** This applies both to the design of lead markets for low-carbon and carbon-based products and to the proposed amendments to the NZIA under Art. 34 IAA. Against this backdrop, changes to procurement regulations and to the non-price criteria in tenders should not be made before existing regulations have been implemented in practice and evaluated.

BDEW generally supports cybersecurity requirements, provided they are designed to be functional, risk-based and coherent with the Cybersecurity Act II and other relevant legislation. However, they must not serve unrelated purposes.

1.1 Key Demands

- › The industrial policy objectives of the IAA should primarily be pursued through funding instruments, investment incentives, credit programs, tax relief and direct support for European production capacities, rather than primarily through mandatory requirements under procurement and auction law.
- › The IAA and the upcoming revision of the EU procurement directives must be coherently aligned with one another. Additional origin, resilience or sustainability requirements should be applied sparingly. The fundamental objective of procurement law must be to simplify and add flexibility to public procurement.
- › An expansion of the scope of the NZIA or a tightening of its exemptions under Art. 34 IAA should be rejected before the effectiveness of the NZIA has been evaluated. The existing NZIA rules should first be implemented and evaluated.
- › “Union origin” requirements should be designed to be targeted, risk-based and aligned with market availability. Blanket origin requirements without a concrete link to security, resilience or system relevance should be avoided.
- › Robust partnerships with equivalent third countries, in particular WTO-GPA states, should be incorporated into the “Union origin” logic, and procurement and auctions should be designed as coherently as possible. Changes to country lists must be made in a transparent, evidence-based manner and with transition periods.
- › Lead markets for low-carbon products must be created based on clear definitions, practicable certification and an appropriate level of ambition. Terms such as “low carbon” must be clarified from the outset in a legally sound manner. The creation of lead markets should also cover carbon-based products.
- › Cybersecurity requirements are generally supported, but they must be designed to be functional, risk-based and consistent with the Cybersecurity Act II, NIS2 and the CER Directive, and must not be mixed with industrial policy concerns. The list of high-risk suppliers must be finalised before the IAA requirements take effect. The extension of existing cyber and data security requirements to all tenders should be implemented with an appropriate transition period in order to assess their practicability in the first NZIA tenders and make adjustments as necessary.

2 Status quo and General Assessment of the Industrial Accelerator Act

BDEW supports the overarching objectives of the Industrial Accelerator Act (IAA), in particular the preservation as well as the expansion and build-up of European production capacities that are central to the energy transition, industrial decarbonisation and security of supply.

The long-term **security of supply and protection of transformation technologies is a key prerequisite for a resilient energy system**. At present there are, however, risk-laden dependencies on third countries in relation to certain energy-transition and digitalisation technologies².

In this context, in BDEW's view, resilience does not mean independence from imports, since a complete relocation to Europe of the energy industry's sometimes complex supply chains is neither realistic nor desirable. Instead, the aim should be to work towards a strategic sovereignty that enables the EU as a whole to reduce dependencies on individual supplier countries, in particular for security-relevant components, while retaining or rebuilding its own know-how and value creation. To achieve this, it is necessary both to advance **the diversification of supply chains** by making use of the advantages of globalisation, and to **strengthen or rebuild domestic industries** as well as make greater use of the **benefits of the circular economy**. This requires an innovation drive in key technologies and capabilities, in particular in the field of hydrogen technologies as well as technologies for the capture, storage and use of carbon dioxide (CCU and CCS). In this sense, CO₂-based products should also be taken into account, for example through the use of CO₂ in the chemical industry as part of CCU, as well as construction materials such as cement produced using CCS.

For the IAA to genuinely strengthen European industry, in particular as a manufacturer of net-zero technologies, heavy bureaucratic burden must be avoided at all costs. The **massive increase in bureaucracy expected from the IAA proposals** runs counter to this aim, as well as to the European Commission's stated objective of accelerating and simplifying procedures. It is also important in this context to ensure the IAA's coherence with existing legislation, or legislation currently under revision, like in particular the Net-Zero Industry Act (NZIA) and EU procurement law.

It is also important that the right **balance be struck between resilience, enabling the expansion of renewable energy and grids, and designing regulations to be as unbureaucratic as possible**, so as not to jeopardise the energy transition objectives. This also includes recognizing that any additional costs resulting from the partial procurement of more expensive European products will increase the overall costs of the energy system and thus run counter to

² See BDEW discussion paper: [Resilienz im Energiesektor: Handlungsfelder und -bedarfe](#), 28 August 2025

the goal of reducing energy prices to strengthen competitiveness. The measures envisaged in the Industrial Accelerator Act (IAA) furthermore **carry the risk of significant competitive distortions in liberalised energy markets**. Measures such as investment protection instruments, loan programs, special depreciation allowances/tax breaks, and direct support for the establishment and expansion of European production capacity—ideally at the EU level—can support the IAA’s objectives in a less bureaucratic and more targeted manner than public procurement regulations, while avoiding distortions of competition.

The Industrial Accelerator Act does not provide a funding architecture for the technologies and industry sectors concerned; instead, it attaches additional requirements to existing national and European funding instruments. Rather, it envisages the use of **demand-side instruments as the central industrial policy steering tool**. This concerns, in particular, auctions for renewable energy, public procurement and other forms of state support. In doing so, existing instruments, in particular Art. 26 NZIA, are being significantly expanded and given additional requirements. This affects a range of requirements relating to supply chains and security aspects. These additional requirements are integrated directly into existing auction and procurement systems, without adequately taking into account the impact on costs, competition and the pace of renewable energy expansion. In order not to slow down the further expansion of renewable energy, it is essential to avoid a premature expansion of the scope of Art. 26 NZIA, which would make both the project costs themselves and the effort of demonstrating compliance with the non-price criteria excessively complex and bureaucratic. The evidence required must also be limited to components that companies can realistically verify. Any other approach would run counter to the EU's overarching objective of reducing bureaucracy.

BDEW explicitly points out that the preservation, expansion or rebuilding of production sites for renewable-energy technologies within the EU cannot be achieved through procurement-law requirements alone. Rather, long-term (financial) incentives, as well as strategic and cross-cutting approaches, are needed, together with a clear commitment to the EU's 2050 climate-neutrality target and the 2030 renewable-energy target. Only in this way can the necessary long-term investment security be created, the required infrastructure be built up sustainably, and the European Commission's objective of retaining and further developing – and, where appropriate, re-shoring – development, production, know-how and innovation in net-zero technologies within the European Union be achieved.

BDEW is generally more open to taking “Union origin” requirements into account within funding instruments than to mandatory requirements under procurement or auction law, since funding instruments interfere less with existing procurement markets and can create more targeted investment incentives.

3 Specific Comments on the Contents of the Industrial Accelerator Act

In the following, BDEW comments on the effects of the current proposals for a European Industrial Accelerator Act (IAA) on the energy industry.

3.1 Chapter II (IAA), “Enabling Conditions For Industrial Production and Decarbonisation”

3.1.1 Articles 4-6 (IAA), Central Access Points, Permitting Procedures, Projects for the Decarbonisation of Energy-Intensive Industries

The central access points and uniform permitting procedures for industrial manufacturing projects provided for under Articles 4 and 5 IAA can generally help to simplify and speed up procedures. For the energy industry, this is particularly relevant where projects for industrial decarbonisation, the ramp-up of hydrogen technologies, or the manufacture of energy-transition components are concerned.

Under Article 6(2) IAA, **projects for the decarbonisation of energy-intensive industries** under *Art. 14 of EU Regulation 2025/0391 on speeding-up environmental assessments* are expressly defined as **strategic projects that contribute to resilience and decarbonisation or resource efficiency**. Under Article 6(1), the newly introduced *Article II Annex II of Regulation (EU) 2024/1735 (NZIA)* applies to them. This classification can generally be useful if it actually leads to faster planning and permitting procedures.

It would, however, be problematic if classifying a project as strategic also meant that these projects become subject to additional resilience, origin or evidentiary requirements that negate the intended acceleration. Strategic projects in particular must not be unnecessarily slowed down by additional procurement, evidentiary or supply-chain obligations. Otherwise, there is a risk that the IAA’s acceleration effect will be undermined and that strategic projects will, in effect, be placed at a disadvantage compared with projects that are not classified accordingly.

Solution:

- › The application of additional resilience and origin requirements to strategic projects under Art. 6 IAA should be reviewed and made significantly more flexible. In particular, it must be ensured that additional evidentiary and procurement obligations do not undermine the acceleration effect sought by the IAA. Strategic projects should therefore be exempt from additional requirements where these would lead to significant delays, restricted competition or disproportionate additional costs.

3.2 Chapter III (IAA), “Strengthening the Union’s Strategic Industrial Value Chains”

3.2.1 Articles 7, 11, 12 in conjunction with Annex II: “Union origin”, Public Procurement

With regard to a mandatory Buy European rule, it should be noted that preferential treatment of companies from the European Union on security grounds can generally be understood, in particular where the protection of critical infrastructure, the avoidance of security-relevant dependencies, or the handling of sensitive data and documents is concerned.

By contrast, an EU preference that primarily serves industrial policy objectives and would be associated with extensive additional verification and evidentiary obligations for public contracting authorities must be assessed considerably more critically. Contracting authorities would potentially have to analyse bidders’ shareholding and ownership structures in order to determine whether third-country companies exercise a controlling influence. In addition, checks along the value chains would be required, for example to determine the share of European value creation within the supply chain. Furthermore, public contracting authorities would be required to take into account the complex rules of the Government Procurement Agreement (GPA) as well as relevant free trade agreements, in order to be able to classify the origin of individual services or components with legal certainty.

These additional requirements would result in a considerable additional administrative burden that appears barely manageable in practice. They would also stand in clear contradiction to current efforts to simplify procurement law and speed up procurement procedures. The objective pursued by, for example, the German Procurement Acceleration Act (“Vergabebeschleunigungsgesetz”) of achieving more efficient, practice-oriented procurement would thereby be undermined.

In Chapter III, the IAA provides for a significant expansion of industrial policy demand-side instruments. This concerns, in particular, public procurement, auctions for net-zero technologies, as well as other state-influenced demand-side instruments. The aim is, through additional resilience, sustainability, security and origin requirements, to specifically strengthen European production capacities and supply chains.

At the same time, the additional requirements provided for in the IAA carry considerable risks for competition, the pace of expansion and investment conditions. This concerns, in particular, the planned expansion of non-price criteria within auctions, as well as the introduction of additional “Union origin” requirements via Annex II and Annex III of the NZIA as amended by the IAA.

Public contracting authorities, including many public energy utilities, are subject to extensive procurement-law requirements. If these are tightened further, there is a risk of market

distortions as well as market shifts and supply shortages that will, in the medium term, work against affordable energy supply. In this context, BDEW explicitly recommends refraining from extending procurement-law obligations to further companies, so as not to reinforce the risks described. The aim should instead be to avoid additional IAA-related procurement requirements for the energy industry, or to limit them with legal certainty.

In practice, additional criteria in all affected areas can result in **potential bidders being deterred by the complex and time-consuming procedures and instead favouring contracting authorities that are not bound by procurement law**. They therefore interfere directly with existing procurement and supply-chain structures and, particularly in markets with a limited supplier base, can lead to **higher costs, lower competitive intensity and longer procurement processes**: the more restrictive the criteria, the fewer participants take part in the tender procedure. This could further exacerbate the worrying trend towards very few bids in public tenders: across all sectors, the average number of bids per tender fell by almost 40% – from 5.6 (2006–2010) to 3.4 (2017–2024). At the same time, the share of public tenders with only one bidder rose over the last ten years from 23.5% to 41.8%.³

With regard to hydrogen infrastructure projects, it should be noted that applying “Union origin” and “low-carbon” requirements to public energy utilities can lead to higher investment costs and longer implementation times in the ramp-up of the hydrogen economy. Delays in the development of hydrogen infrastructure and production would therefore directly impair the availability of renewable hydrogen for European industry, thereby making it more difficult to produce exactly those “low-carbon” products in the EU whose production the Industrial Accelerator Act is intended to promote (see Chapter 3.2.3 of this position paper).

BDEW is open to the idea of taking “Union origin” requirements into account when awarding grants (Article 12). Unlike mandatory requirements under procurement or auction law, requirements under funding programmes interfere less with existing procurement markets and competitive structures. Funding instruments can generally represent a more suitable means of incentivising investment in European production capacities and resilient supply chains, without overloading public procurement or competitive tenders with additional mandatory criteria. In BDEW’s view, investment and production incentives are generally better suited to supporting industrial policy objectives than mandatory interventions in procurement and auction procedures. This is also demonstrated by the approach taken under the US Inflation Reduction Act: there, clean energy technologies and industrial value creation are strengthened, among other things, through production and investment incentives, for

³ European Commission, [Evaluation of the Public Procurement Directives](#), 2025, p. 25

example through tax incentives for the manufacture of solar, wind, inverter, battery and critical raw material components, as well as through bonus funding for meeting domestic content requirements. By contrast, the IAA so far lacks a long-term, comprehensive package of measures capable of mobilising investment in European production capacities in a comparable way. Investment protection instruments, credit programs, special depreciation/tax relief, or direct funding for the build-up and expansion of European production capacities can support the IAA's objectives in a less bureaucratic and more targeted manner than procurement-law provisions, while avoiding competitive distortions.

Solution:

- › Rather than steering the IAA's worthy objectives through procurement-law requirements, **industrial policy objectives should be pursued through funding instruments and (non-financial) investment incentives**, not through mandatory interventions in procurement procedures. At the same time, it must be ensured that the relevant requirements are designed to be technology-neutral, proportionate and practicable.
- › Should the route via public procurement nevertheless continue to be pursued, it is necessary:
 - to ensure that **additional requirements are designed on a voluntary basis, or provided with effective exemptions, transition periods, opt-outs and flexibility mechanisms**.
 - to make the application of additional requirements in the procurement procedure mandatory only where they are **genuinely required for the European production of security-relevant or system-critical components**. This includes, in particular, digital control, communication or remote-access functions. Blanket origin or local-content requirements without such a link should be avoided.
 - to examine whether certain areas relevant to the Union's general energy policy orientation, in particular the energy industry, can be **exempted from additional mandatory criteria** or at least made significantly more flexible, in order to avoid delays in expansion and cost increases.
 - to ensure that **exemptions are designed to be practicable**. For example, Article 11 (3) of the IAA does provide for exceptions where there are "no suitable tenders". However, relying only on unsuccessful procedures from the last two years does not adequately reflect the procurement reality in energy infrastructure. Particularly in the case of long-term and time-critical infrastructure projects, it should be avoided that contracting authorities are required to repeat already-failed procedures solely to formally

satisfy evidentiary requirements. The period should therefore be extended to five years.

- Reference is made to the further points under Chapter 3.6 of this position paper.

3.2.2 Articles 8, 9: Equivalence of Content from Third Countries

From BDEW's perspective, it is crucial that the definition of third countries of equal standing be structured to be stable and reliable in the long term. The diversification of international supply chains is a central component of European resilience and must not be impaired by an overly narrow design of "Union origin" requirements, or one that can be changed at short notice. **European resilience should accordingly not be equated with complete regionalisation or isolation.** Instead, what is needed is an open strategic autonomy that combines the diversification of international supply chains with the targeted build-up of European production capacities.

BDEW therefore generally supports the approach provided for in the IAA of taking into account, alongside the European Union, certain third countries with comparable trade and procurement standards. In particular, WTO-GPA states should generally be recognised as equivalent.

Highly internationalised supply chains exist today, particularly in many technology areas that are central to the energy transition. An overly restrictive design of origin requirements could therefore lead, in the short term, to considerable market disruption, higher costs and additional supply bottlenecks.

In particular, criticism is directed at the envisaged possibility of adjusting or withdrawing the equivalence of individual third countries or groups of countries by means of delegated acts. For a globally networked, capital-intensive sector with multi-year investment horizons and lead times, the two-month review period for changing the eligibility rules is far too short and would create considerable regulatory uncertainty. Short-notice changes to country lists can destabilise existing supply chains and considerably complicate investment decisions. Companies must plan their procurement and investment strategies regularly over several years; this requires stable and reliable framework conditions.

Solution:

- › WTO-GPA states should generally be recognised as equivalent.
- › It must be ensured that any changes to the equivalence status of third countries are announced early, justified transparently, and accompanied by appropriate transition periods.

- › In addition, regular evaluation should take place as to whether origin requirements actually contribute to strengthening European resilience, or cause unintended negative effects on competition, costs and security of supply.

3.2.3 Article 10, Annex II: Lead Markets for Low-Carbon Products

BDEW generally supports the IAA's objective of using the creation of European lead markets to promote investment in the production of low-carbon and CO₂-based products.

Long-term and reliable demand prospects can make an important contribution to incentivising corresponding investment in the upstream hydrogen economy, as well as in CCU and CCS technologies.

At the same time, as long as key substantive requirements – such as the definitions of “low-carbon” products – are not yet finally settled, considerable investment and planning uncertainties exist along the entire value chain: Article 10 IAA refers, for the definition of “low-carbon” products, to later delegated acts under the *Construction Products Regulation (CPR)* as well as the *Ecodesign for Sustainable Products Regulation (ESPR)*. The IAA itself therefore does not yet finally define key substantive requirements. At the same time, however, binding quotas and demand targets are already to be introduced. In the interest of rapid capacity to act and the development of lead markets, the definitions for low-carbon products must be worked out in parallel with the highest priority. A delay must not hold back the establishment of lead markets. In global competition, there is no time to lose here.

Additional uncertainties arise from the delineation used, in connection with Annex II, of **products whose “performance” is materially dependent on certain components or materials** and which are intended for “civil purposes”. The current wording leaves open which specific products and infrastructures are covered by this. Without a **precise and technically comprehensible definition**, there is a risk that products of the energy infrastructure will also be covered for which neither the resilience benefit nor the market availability of corresponding European alternatives has been sufficiently clarified. The scope should therefore be defined clearly and at an early stage. In particular, the definitions should both set out the concept of “performance” and clarify the term “infrastructure for civil purposes”, such that this is understood to cover public buildings, public transport routes, and the design and development of public spaces and public areas, with the exception of the sectors and activities already covered by the NZIA (Regulation (EU) 2024/1735).

At the same time, the envisaged requirements can have a direct impact on costs and procurement, even though market availability, certification systems and specific definitions are not yet settled. This is problematic in particular against the backdrop of the already considerable financing requirements of the energy transition.

In addition, in many industrial applications, meeting the envisaged requirements will depend materially on the sufficient availability of renewable and low-carbon hydrogen at competitive cost. **The creation of lead markets for low-carbon products should therefore be flanked by suitable measures to ramp up the hydrogen economy**, as otherwise the necessary basis for the production of low-carbon products would be missing. This includes, among other things, necessary incentive mechanisms such as contracts for difference and guarantee instruments. Against this background, BDEW, together with other German and European associations, advocates a hydrogen alliance at the level of the European member states, in order to better coordinate requirements relating to regulation, infrastructure, funding, demand incentives, regulatory planning certainty and risk mitigation. Such an alliance can help to link the ramp-up of renewable and low-carbon hydrogen with European lead markets for low-carbon products, thereby strengthening resilience, security of supply and industrial value creation in Europe.

In designing European lead markets, it must furthermore continue to be ensured that the international competitiveness of energy-intensive industries and of the energy industry is not impaired. Additional costs of low-emission products must not lead to structural competitive disadvantages. The design of lead markets should therefore be technology-neutral and ensure sufficient flexibility for different decarbonisation pathways.

Solution:

- › The prerequisites, definitions and certification systems for “low carbon” products must be fully and legally defined before the introduction of binding quotas or demand targets. At the same time, this process must not delay the development of lead markets.
- › For projects that serve to build up a hydrogen economy, it should generally be taken into account that additional requirements do not counteract the very objective of this ramp-up, nor slow down the availability of hydrogen with regard to the objective of corresponding lead markets.
- › Certification and evidentiary systems must be designed to be low-bureaucracy, tradeable and practicable. To this end, they should build on existing evidentiary systems and interact at EU level within a functioning Union Database, enable digital evidence provision, avoid duplicate checks, and ensure the transferability of evidence along the supply chain.
- › The level of ambition must be chosen to achieve a steering effect. At the same time, the necessary quantities of renewable and low-carbon hydrogen must be procurable, both physically and economically.

3.2.4 Articles 13, 14, 15 in conjunction with Annex III: Transport Sector, Support for Company Vehicles, Compliance with CO₂ Standards, Union Content Requirements

BDEW supports the objective of linking the ramp-up of zero-emission and low-emission vehicles with European value creation. A resilient European battery and vehicle value chain can make an important contribution to security of supply, industrial competitiveness and acceptance of the transport transition.

The “Union origin” requirements for publicly procured or publicly funded vehicles provided for in Annex III can therefore, in principle, send a useful industrial policy signal. What is crucial, however, is that they are designed in such a way that electric vehicles remain available, affordable and internationally competitive. This is particularly relevant for municipal fleets, energy utilities, charging infrastructure operators and other commercial users. The definitions of benefits (“super credits”) adjusted in Part III, Annex III, under Article 5 of the Regulation on CO₂ emission standards for new light commercial vehicles (Regulation (EU) 2019/631) are welcomed. At the same time, BDEW points out that the planned adjustments to the aforementioned Regulation will further weaken the effect of the CO₂ fleet limits.

From BDEW’s perspective, the design of the requirements must not slow down the ramp-up of electromobility. Additional origin and evidentiary obligations must be consistent with the actual market availability of vehicles, batteries and components. Otherwise, there is a risk of higher procurement costs, lower model availability and delays in fleet conversion. At the same time, it remains important that the requirements of the EU Automotive Package for vehicle fleets and corporate fleets are not weakened.

3.3 Chapter IV (IAA): “Foreign Investment Contribution”

BDEW supports the objective of designing investment in strategic sectors in such a way that value creation, know-how, employment and supply-chain security in Europe are strengthened. At the same time, the new investment regime must not result in urgently needed production capacities in Europe being made more difficult to establish or delayed. This applies in particular to areas such as batteries, solar PV, electromobility and critical raw materials, where the European market is already dependent today on additional production capacities and international partnerships.

The proposed rules should therefore be designed coherently with the existing EU framework for FDI screening under Regulation (EU) 2019/452 and should not create parallel or contradictory review regimes. The substantive criteria should be designed in such a way that they enable genuine know-how transfer and European value creation, without deterring investment across the board. To the extent that the Commission is to be able to include further

sectors by means of a delegated act, clear criteria, transparency and appropriate transition periods are required.

3.4 Chapter V (IAA): “Industrial Manufacturing Acceleration Areas”

The introduction of Industrial Manufacturing Acceleration Areas is welcomed, insofar as they actually contribute to faster permitting, better location conditions and accelerated industrial decarbonisation. However, a patchwork of widely differing acceleration areas based on different EU legal acts and differing requirements for them should be avoided.

From the energy industry’s perspective, it is crucial that energy infrastructure is an integral part of these acceleration areas from the outset: industrial acceleration areas can only be successful if grid connections, sufficient electricity supply, local generation, storage, flexibility and, where applicable, hydrogen infrastructure are planned in from an early stage. Accordingly, the energy needs associated with such acceleration areas must be taken into account in line with existing planning mechanisms. Additional hurdles or parallel requirements should be avoided, and legal certainty and coherence with existing energy-law provisions must be secured. The reference in Art. 26 to energy needs analyses, grid development plans and anticipatory investments is therefore appropriate and should be consistently implemented.

3.5 Chapter VI (IAA): “Final Provisions”

3.5.1 Article 30 in conjunction with Articles 8, 9, 10, 16(2), (3) and 24: EU Power to Adopt Delegated Acts

BDEW points out that, in key areas, the IAA provides for **far-reaching powers for the European Commission to subsequently specify and adjust key requirements**. This concerns, in particular, the delegated acts provided for in Art. 16(2) IAA, as well as the powers set out in Art. 30 IAA to adjust technical and substantive requirements.

Energy industry companies regularly make investment and procurement decisions with a long-term planning horizon. Short-notice or hard-to-predict regulatory changes can destabilise existing supply chains, delay investment and create additional legal and planning uncertainty. There is also a risk of regulatory fragmentation, since requirements arising from the IAA interact with existing and planned provisions under, among others, the CPR, ESPR, NZIA and other sector-specific regulatory frameworks.

Key market and investment parameters are not yet been definitively established at the time the IAA enters into force; rather, they are to be specified or amended at a later date through delegated acts. This concerns, in particular:

- › definitions of “low carbon” products,
- › requirements relating to “Union origin”,
- › the equivalence or exclusion of certain third countries,
- › technical evidentiary and certification systems,
- › thresholds and scopes of application, and
- › possible extensions of the technologies and sectors covered.

As a result of the Commission’s power under Art. 30 IAA to dynamically adjust key technical requirements, product categories, origin rules, as well as the equal standing of third countries, there arises a **risk of ongoing regulatory change to key market conditions during current investment and procurement cycles**. For procurement practice, such downstream specification means that investment and procurement decisions must be made under considerable uncertainty. This concerns, in particular, the assessment of cost effects, since key requirements and their specific design are not yet finally established at the time of the tender. However, companies need stable and reliable framework conditions in order to be able to make long-term investments and build up supply chains.

Solution:

- › Key political and economic fundamental decisions must be laid down directly in the legislative process itself.
- › The scope of delegated acts must be clearly limited. To the extent that later adjustments are necessary, these should be made transparently, on an evidence-based footing, and with the inclusion of adequate transition periods.

3.6 Amendments to the NZIA: Article 34 (IAA)

Article 34 (IAA) provides for far-reaching amendments to the Net-Zero Industry Act (NZIA). This concerns, in particular, Art. 3, Art. 9, Art. 25, the new Art. 25a, Art. 26, the new Arts. 28a–28e, as well as the new Annex II of the NZIA.

From BDEW’s perspective, these amendments are highly relevant. The introduction of additional non-price criteria means that projects can no longer be realised solely on economic grounds, which increases project costs and risks, since the available supply-chain options are restricted (see Chapter 3.2.1 of this position paper). Against this background, there is a concrete risk that the expansion of renewable energy will be slowed down, particularly if the envisaged additional requirements are not at least flanked by suitable measures.

Although BDEW generally supports the objective of strengthening European production capacities for net-zero technologies and making supply chains more resilient, it must be avoided that the IAA tightens existing instruments before they have been tested in practice. Since hardly any NZIA-compliant auctions have been conducted across Europe to date, practical experience with the application of the new provisions is lacking. This makes simple, transparent and low-bureaucracy implementation at national level all the more important. Additional complexity in tender design should be avoided so as not to delay the expansion of renewable energy and the associated investments. A significant expansion of the NZIA criteria without robust practical experience would create additional legal uncertainty and could impair the cost-efficient and timely expansion of renewable energy. National implementation should therefore initially be geared towards practicable, clearly comprehensible and low-bureaucracy provisions.

3.6.1 Amendments to Art. 26 (NZIA) in conjunction with the New Annex II (NZIA)

In this context, the amendment of Art. 26 NZIA by the IAA should be rejected. This amendment calls for expanding the mandatory scope of application of non-price criteria from the current 30% or 6 GW to 40% or 8 GW of the annual auction volume. This expansion should not be viewed in isolation: it can considerably reinforce the cost and complexity effects of additional criteria.

BDEW therefore advocates **postponing the expansion of the scope of application of non-price criteria for the time being and first robustly evaluating the existing NZIA rules**. Accordingly, the existing NZIA framework of 30% or 6 GW should be retained. Exemption thresholds, in particular the question of the cost threshold, too should not be tightened until experience is available regarding the actual effect on competition, costs, undersubscription, supply chains and the pace of expansion.

In addition, the exemption provisions provided for in the IAA for cases of possible delivery delays should be designed to be practicable. Particularly in tenders for renewable energy, storage or hydrogen projects, it must be possible to assess, comprehensibly and prior to contract award, whether additional origin or resilience criteria would lead to significant delays. The conditions for corresponding opt-outs should therefore be defined clearly, objectively and with legal certainty, in order to avoid both abuse and unnecessary project delays.

The new Annex II NZIA contains specific “Union origin” requirements for net-zero technologies. This concerns in particular battery storage, solar PV, large-scale and industrial heat pumps, wind turbines, nuclear technologies and electrolyzers. Depending on the technology, the requirements apply to public procurement, auctions and/or funding schemes. These tiered models should be more closely linked to actual market availability, supply chains and

investment cycles. In several technology areas, only limited alternative sources of supply exist.

At the same time, it should be noted that **requirements in the area of cybersecurity and resilient supply chains are generally sensible and necessary** in view of increasing digitalisation and growing threats within the energy system. The corresponding provisions in Art. 26(1) (NZIA) are therefore supported. Particularly for critical components and digital control systems, giving greater weight to security aspects, including the origin and trustworthiness of suppliers, can make an important contribution to security of supply and system stability. It is crucial, however, that such measures are designed to be risk-based, proportionate and technically justified, and are accompanied by adjustment periods that allow sources of supply along the supply chain to be changed.

The classification of “high-risk suppliers” must accordingly be based on objective, transparent and verifiable criteria. In this regard, in addition to technical security characteristics, risks arising from strategic dependencies, state influence, and the resilience, transparency and controllability of supply chains, as named above in relation to critical components, must also be appropriately taken into account. Against this backdrop, clear coordination between the IAA/NZIA, the EU Cybersecurity Act II, NIS2 and the CER Directive is required, in order to avoid contradictory or duplicate requirements and to create a coherent framework for security requirements.

Solution:

- › No premature expansion of the non-price criteria of the NZIA, as extended by the IAA, beyond the current 30% of tenders (or 6 GW). Instead, any expansion should take place on the basis of the review process provided for in the NZIA.
- › No immediate expansion of the existing mandatory prequalification criterion “cyber and data security” to 100% of all tenders. Instead, the practicability of this multi-layered criterion should first be tested in initial NZIA tenders, and harmonisation should be carried out on the basis of European best practice. An appropriate transition period should be provided for this purpose.
- › Should an expansion of the NZIA nevertheless be envisaged, introduction periods should be provided for origin requirements (“Union origin”) that take account of the market conditions of the respective technologies and thereby secure availability, affordability and regulatory stability.
 - For PV, the proposed three-year introduction period for inverters should be retained. For cells, an introduction period of five years should be provided, in order to allow the necessary establishment of European sources of supply.

- For BESS, the proposed one-year introduction period for the first stage of origin requirements should likewise be extended to three years. Furthermore, it should be clarified that the origin of the BESS relates only to final “assembly”. Any further extension of the origin requirements should not take place automatically, but only on the basis of an evaluation of the rules. The same applies to any extension of the components defined so far (e.g. to PCS).
 - For offshore wind, the introduction periods for the proposed stages 1 and 2 of the origin requirements should be extended by two years each, i.e. to three and five years respectively after the IAA enters into force, since alternative sources of supply are more limited compared with onshore wind.
 - For hydrogen, the one-year introduction period for the first stage of the origin requirements should likewise be extended by two years, i.e. to three years. In addition, until an evaluation of the rules is available, this should be limited to clearly defined and verifiable key components, since hydrogen is at a very early stage of market introduction and would be disproportionately burdened by the proposed origin requirements. For electrolyzers, no specific origin requirements should apply pending further technical and regulatory clarification; these should be clarified as part of a review.
- › The classification of “high-risk suppliers” must be based on objective, transparent and verifiable criteria and must be designed coherently with the Cybersecurity Act II. A corresponding list must be finalised before the IAA obligations take effect.

3.6.2 Amendments to Article 25 and New Article 25a NZIA

The amendments to Article 25 and the new Art. 25a NZIA introduce additional requirements for public tenders, including in relation to third-country companies, Union origin, and conditions for non-applicability. Implementation of Art. 25a would likely lead to price increases in the double-digit percentage range for companies subject to procurement obligations. From BDEW’s perspective, there is a risk here that markets will be artificially restricted beyond the objectives of the IAA.

It is therefore crucial that exemptions apply broadly enough where price, availability or timing would otherwise not be viable, and that public contracting authorities are not forced to repeat procurement procedures even though no suitable tenders are to be expected.

3.6.3 New Articles 28a-28e NZIA

The new Arts. 28a–28e NZIA concern conditions for funding and other public interventions. This funding logic is, in principle, less prone to distortion than mandatory procurement-law

requirements, but it must likewise be designed consistently, practicably and with low bureaucracy, taking into account the considerations set out above.

4 Taking Account of Impacts on Energy Transition and System Costs

The measures envisaged in the IAA potentially have far-reaching effects on the speed and cost-efficiency of the energy transition. In particular, the increasing linkage of industrial policy objectives with key expansion instruments such as auctions and procurement can lead to conflicting objectives. A key risk is that additional requirements **slow down and increase the cost of the expansion of renewable energy**. These effects arise in particular because projects can no longer be realised solely on the basis of cost and efficiency criteria, but must instead take into account additional restrictions in the choice of technologies and suppliers. As a result, both project costs can increase and implementation times can lengthen, which has a direct impact on the pace of expansion. Since the time factor represents, in many projects, a risk factor that is at least equally significant and in some cases even dominant, this is particularly critical against the backdrop of the ambitious European expansion targets. The energy transition depends substantially on a **rapid and cost-efficient expansion of renewable generation capacity**. Insofar as the IAA is also intended to have an effect on tenders for renewable energy projects, it is necessary that the additional costs arising from resilience criteria can be reliably priced into bids for contracts for difference. Correspondingly sufficient strike-price ceilings should be provided for this purpose.

At the same time, it must be taken into account that the proposed measures do not only affect individual projects, but can also have an impact on the **overall costs of the energy system**. Higher investment costs in generation, storage and hydrogen infrastructure are passed on to consumers in the long term and can impair society's acceptance of the energy transition. In order to keep the additional costs within a framework that is acceptable to society as a whole, the focus in relation to the resilience of supply chains should – as described above – be on the diversification of critical dependencies.

A further critical point concerns the **system perspective**, in particular grid expansion. While increasing additional requirements are being introduced for generation technologies, grid technologies are largely exempted under the IAA; however, network operators subject to procurement obligations may be affected by other provisions of the IAA, for example in the procurement of materials such as steel, concrete or aluminum, which play a central role for the energy industry and the expansion of grid infrastructure.