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Position Paper

Implementation of the European Net-Zero Industry Act (NZIA) for public procurement in the field of PV and wind energy

Recommendations from the energy industry on the implementing act for environmental sustainability criteria pursuant to Article 25 of Regulation (EU) 2024/1735 (NZIA)

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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.

BDEW is registered in the German lobby register for the representation of interests vis-à-vis the German Bundestag and the Federal Government, as well as in the EU transparency register for the representation of interests vis-à-vis the EU institutions. When representing interests, it follows the recognised Code of Conduct pursuant to the first sentence of Section 5(3), of the German Lobby Register Act, the Code of Conduct attached to the Register of Interest Representatives (europa.eu) as well as the internal BDEW Compliance Guidelines to ensure its activities are professional and transparent at all times. National register entry: R000888. European register entry: 20457441380-38

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1 Introduction and general remarks

The BDEW supports the overarching goals of the Net-Zero Industry Act (NZIA), including the preservation, expansion and development of European production capacities, particularly for transformation technologies in the field of renewable energies (RE) and energy networks that are critical to the energy transition.

Securing the long-term supply and protection of transformation technologies is a key prerequisite for a resilient energy system. Regarding individual energy transition and digitalisation technologies, the BDEW believes that dangerous dependencies on individual third countries must be avoided at all costs¹.

According to the BDEW, resilience does not mean independence from imports in this context, because a complete relocation of the energy industry's sometimes complex supply chain to Europe is neither realistic nor desirable. Instead, the EU should work towards strategic sovereignty that enables to reduce its dependence on individual supplier countries as well as to retain or rebuild its own expertise, innovation and value creation. To achieve this, we need a two-pronged approach that takes advantage of globalisation by combining the diversification of supply chains with the strengthening or rebuilding of domestic industries.

For the NZIA to strengthen European manufacturers of net-zero technologies and to create a level playing field, it is essential to avoid creating bureaucratic burdens through a multitude of sometimes very complex non-price-related criteria. The expected massive increase in bureaucracy is not in line with the European Commission's stated goal of accelerating and simplifying procedures. On the contrary: In some cases, the NZIA is reversing the acceleration of national procedures that had already been achieved. This will predictably lead to longer processing times and thus to delays in the further expansion of renewable energy technologies.

Therefore, the BDEW urgently recommends addressing existing challenges with a mix of measures that should include investment protection programmes, bureaucracy reduction, subsidies, regulatory adjustments and incentives. The NZIA alone is not sufficient to create the necessary resilience.

Measures such as the mandatory environmental sustainability criteria in public procurement procedures (Article 25) and competitive tenders for renewable energies (Article 26) adopted in

¹ BDEW-discussion paper [„Resilienz in der Energiewirtschaft“](#) (January 2024)

the NZIA can, if at all, only make a small contribution to supporting domestic industries. At the same time, procurement law, which is already complex for smaller players, must not be overburdened.

In any case, it is important to find the right balance between resilience, enabling the expansion of renewable energies and grids, and keeping regulations as unbureaucratic as possible to not jeopardise the energy transition goals². This also includes recognising that any additional costs incurred through the partial procurement of more expensive European products increase the overall costs of the energy system, which is in conflict with the goal of reducing energy prices to strengthen competitiveness of certain sectors exposed to international competition.

- › It is essential that the process of verifying compliance with the criteria is not overly complex and bureaucratic. Verification must ~~also~~ be limited to a value creation scope that can realistically be verified by companies, i.e. upstream production steps. Any other approach would be counterproductive to the overarching EU goal of reducing bureaucracy.
- › The BDEW explicitly points out that the preservation, expansion and reconstruction of production sites for renewable energy technologies within the EU **cannot be achieved solely through regulatory measures, particularly in the form of resilience criteria set by the NZIA. Long-term (financial) incentives** are also needed, as well as a clear commitment to the EU's 2050 climate neutrality target and the 2030 renewable energy target. Only in this way can the planning certainty and necessary infrastructures be built sustainably and the European Commission's goal be achieved to keep and foster development, production, know-how and innovation in net-zero technologies within the European Union.
- › Through accompanying, true-to-scale measures ideally at EU level – such as investment protection instruments, credit programmes, special depreciation allowances/tax reductions and direct support for the establishment and expansion of European production capacities – must be ensured that achieving resilience is not realised solely by companies in the energy industry but perceived as a task for society as a whole.
- › In addition, the BDEW identified a great need to secure the strategic supply of raw materials by establishing a European supply chain for critical raw materials and, to set up recycling programmes for renewable energy technologies to reduce dependence on imports.

² BDEW-position paper [„EU-Leitlinien zum Ausschreibungsdesign für Erneuerbare Energien“](#) (March 2024)

- › Finally, it is suggested to invest in skilled worker programmes for the development and installation of renewable energy technologies.

2 Consistent exemptions in public procurement law to avoid competitive disadvantages

The EU Utilities Directive (2014/25/EU) allows for exemptions from public procurement law, which can be granted for certain activities or entire markets per Member State. In Germany, such an exemption is applied in the field of electricity generation from renewable energies (Implementing Decision (EU) 2023/1978).

It must be ensured that an exception to the procurement law also entails an exception to the application of Article 25. The criteria of Article 25 continue to apply to network infrastructure projects and in other Member States, such as France, where renewable energy projects fall under Article 25 of the procurement law.

This could potentially lead to competitive disadvantages between private and public contracting authorities, particularly in renewable energy tenders, which must be avoided at all costs. Therefore, BDEW calls for exemptions from public procurement law that are designed consistently and apply across the EU so that competitive disadvantages are avoided.

3 Comments concerning Article 2 – PV and inverters

The BDEW advocates the use of existing and recognised standards for verification, as correctly included in the draft. Standard certificates and norms, such as IEC 61215 and IEC 61730 for PV modules, as well as DIN EN 62109-1/-2 and VDE 0126-14-1/-2 for inverters, are recognised in the EU and cover the aforementioned requirements/specifications, which the BDEW considers to be fundamentally reasonable as well as achievable and verifiable in the short term.

The draft refers to the standard 'EN IEC 6125:2021' for PV modules. Since no such standard exists, it can be assumed that this is a clerical error and that EN IEC 61215:2021 is meant. This standard contains the relevant climate chamber tests and can be fulfilled by module manufacturers. The reference in the draft should therefore be corrected.