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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

No. Cion doc.: 7613/23 + 7613/23 ADD1

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act)
[ST 7613/23 - COM (2023)161 final]
- Guidance for further work

I. INTRODUCTION

1. On 16 March 2023, the Commission submitted to the European Parliament and the Council a proposal for a Regulation establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act)¹.

¹ 7613/23.

2. On 19 June 2023, the Commission issued a Staff Working Document underpinning the proposal and providing explanatory information to substantiate the regulatory elements put forward in the proposed Act².
3. This Regulation pursues the general objective of setting up a legal framework which supports the development of the manufacturing of net-zero energy technologies in the Union, in order to support the Union's 2030 decarbonisation targets and 2050 climate neutrality target and to ensure the security of supply for net-zero technologies needed to safeguard the resilience of the Union's energy system.
4. This general objective translates into specific objectives of facilitating investments for net-zero technologies (pillar 1), reducing CO2 emissions (pillar 2), facilitating access to markets (pillar 3), enhancing skills for quality job creation in net-zero technologies (pillar 4), supporting innovation (pillar 5) and creating a specific structure for implementing these objectives both in terms of governance and monitoring (pillars 6 and 7).
5. The Commission proposed to base the Regulation on Article 114 of the Treaty on the Functioning of the European Union which allows the Union to take measures that increase harmonisation to create a level playing field within the Union in which net-zero technology manufacturing can flourish. This is conducive to innovation and facilitates the green transition.
6. The European Parliament's Committee on Industry, Research and Energy (ITRE) appointed Mr Christian EHLER (EPP, DE) as rapporteur on the Net Zero Industry Act proposal. The ITRE Committee is expected to vote on its amendments to the Commission's proposal and the mandate for negotiations in October 2023.
7. The opinion of the European Economic and Social Committee on the proposal for the Net Zero Industry Act was adopted on 13 July 2023³, while the requested opinion of the Committee of the Regions was adopted on 5 July 2023⁴.

² 10870/23.

³ 12012/23.

⁴ 12167/23.

II. WORK WITHIN THE COUNCIL

8. The Permanent Representatives Committee heard a presentation from the Commission on the Net Zero Industry Act proposal on 17 March 2023.
9. The Council (Competitiveness), at its meeting of 22 May 2023, heard a presentation from the Commission on the content, aim and scope of the proposal.
10. The Working Party on Competitiveness and Growth (Industry) started examining the proposal under the Swedish Presidency on 20 March 2023, and held seven more meetings until the end of its term. A first compromise text prepared by the Swedish Presidency⁵ was issued in June 2023.
11. The technical work continued during the Spanish Presidency with meetings of the Working Party held on 5, 7 and 10 July that were the basis to elaborate a revised compromise text, prepared by the Spanish Presidency, which was discussed at Working Party meetings on 11, 14 and 18 September 2023.
12. Six technical workshops have also been held on thematic chapters of the proposal.
13. The latest compromise text prepared by the Presidency is set out in documents 12590/23 and 12590/23 ADD1⁶. At this stage, all delegations have a general scrutiny reservation on the text.
14. While delegations generally support the objectives of the proposal, their views still differ on the best way to achieve those objectives. The Presidency endeavoured to improve the proposal's clarity and feasibility and to provide legal certainty, notably by reinforcing the consistency of provisions with the single market objectives.
15. However, the Presidency deems necessary to further assess the situation on key issues of the proposal and requests the Permanent Representatives Committee to provide political guidance on the most suitable way forward on these issues mentioned below.

⁵ 10895/23.

⁶ Document 12590/23 ADD1 covers the chapter "Access to markets" only (Articles 19 to 22).

III. ISSUES FOR POLITICAL GUIDANCE

16. The Presidency presents the following topics for discussion. The Permanent Representatives Committee is invited to express views on the proposed questions as the best way forward.

List of Net-zero technologies

17. The current proposal focuses on the manufacturing of net-zero technologies. The inclusion of “transformative industrial technologies for decarbonisation” in the list of net-zero technologies would significantly broaden the scope of the Net Zero Industry Act by including not only manufacturing of technologies, but also their deployment/installation at existing industrial sites and/or at new low carbon industrial facilities (for instance a new greenfield investment for a green steel factory).
18. This inclusion could expand the benefits of the Net Zero Industry Act to new sectors; however, such an enlarged scope would require Member States to process a greater number of projects (this would affect, for example, the permitting procedure and the resources involved). Additionally, the legal implications would need to be assessed.

Considering this, would you be in favour of extending the scope of the Net Zero Industry Act to also cover deployment at existing industrial sites and/or at new low carbon industrial facilities?

List of Net-zero strategic technologies

19. The list of ‘strategic technologies’ comprises a limited number of technologies, in order to find a balance between reaching the objectives of the Net Zero Industry Act in terms of increasing the manufacturing capacity of net-zero technologies and the resources available at Member State level (such as the administrative resources needed to ensure the implementation of the permitting provisions). Strategic net-zero technologies enjoy additional benefits, namely the provisions on market access (auctions, procurement, other schemes), and the possibility for strategic project status that translates to more prioritised permitting and considerations under the Net Zero Europe Platform (also as regards financing).

Do you consider that new technologies should be included in this list? If so, which ones?

Access to markets

20. Non-price (or quality) criteria help policymakers to achieve further policy objectives with an award procedure. Such objectives could for example be the installation of high-quality products and wider societal benefits linked to environmental sustainability, innovation, energy integration and resilient supply chains.
21. The use of non-price quality criteria in auctions and public procurement is becoming more and more frequent, for instance in wind auctions, many Member States are employing or have employed such criteria.
22. The provisions of the chapter on “Access to markets” of the proposal strengthen the European supply chain of clean technologies by taking into account sustainability and resilience criteria, in order to reward products with high quality standards. In this regard, there is a need to strike a balance between allowing for a degree of flexibility in the implementation of these criteria, while making sure that they are impactful and preserve the internal market.

Do you agree that more flexibility on the use of criteria for auctions, public procurement and other support schemes should be allowed – while keeping or increasing the overall ambition of the Net Zero Industry Act – for example via the possibility to also use pre-qualification criteria?

IV. CONCLUSION

23. The Permanent Representatives Committee is invited to provide guidance on the above-mentioned issues.
 24. The guidance will allow the Presidency to continue work towards reaching a Council mandate as soon as possible.
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