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## **WORKING DOCUMENT**

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**From:** General Secretariat of the Council  
**To:** Working Party on Competitiveness and Growth (Industry)

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**Subject:** Technical Workshops on Access to markets (NZIA) – PowerPoint presentations

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# Access to Markets

Net Zero Industry Act  
4th Technical Workshop with Member States

17.07.2023

# Access to markets provisions in NZIA

## 1. Public procurement/Auctions

- **Award criteria/criteria for ranking auctions** to include the **sustainability and resilience contribution**:
  - 1) environmental sustainability beyond the minimum legal requirements
  - 2) innovation aspects
  - 3) energy system integration
  - 4) resilience (taking into account the proportion of the products originating from a single source, which supplies more than 65% of the specific net-zero technology within the Union).
- In compliance with the EU's international obligations (incl. GATT, GPA, FTAs)
- Mandatory **weighting-range**: 15% to 30% of the award criteria & possibility to go beyond for environmental/innovation criteria
- **Exceptions**: where this would result in technical incompatibility or disproportionate costs (10% presumption)

## 2. National schemes for households & consumers for the purchase of products in the Annex

- promote products with a high sustainability and resilience contribution though an additional financial compensation (up to 5% of the cost of the net-zero technology final product).

## 3. Commission and Platform to support and coordinate

(Commission: possible guidance on criteria list of single sources)

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Art. 19

Public Procurement

# Example: Applying NZIA award criteria for the purchase of solar panels for hospitals in Slovenia

- Slovenian hospitals wish to jointly purchase 10000 solar panels. To award the contract, they will use best-price quality criteria. Under these criteria, 20% of the points awarded would be based on the NZIA criteria on sustainability and resilience contribution, for 5% each. 40% would be based on other quality criteria (such as social considerations, life-cycle costing...). The remaining 40% would be based on price.
- They receive offer A with a 100% EU-based production of the panels and offer B with a 100% Chinese-based production. China is a country with which there is no agreement covering public procurement. In the case of procurement covered under the EU international agreements, the origin would be assimilated to EU origin.
- The example below illustrates how the criteria of sustainability and resilience contribution which represent 20% of the total points to be assigned would be broken down.

	Points Max.	Description	Offer A (EU)	Offer B (China)
environmental sustainability going beyond the minimum requirements in applicable legislation;	5	Not going beyond minimum requirements: 0 points Going somewhat beyond: 2 points Going well beyond: 5 points	5	0
where an innovative solution needs to be developed, the impact and the quality of the implementation plan, including risk management measures	5	No plan: 0 points Low quality implementation plan: 2 points High quality implementation plan: 5 points	5	0
where applicable, the tender's contribution to the energy system integration;	5	Tender does not meet criteria (to be defined by authority): 0 points Tender meets half of the criteria: 3 points Tender fully meets criteria: 5 points	5	3
the tender's contribution to resilience	5	More than 70% of the product value originates from a single source of supply with high supply concentration: 0 points Less than 50% of the product value originates from a single source of supply with high supply concentration: 3 points Less than 20% of the product value originates from a single source of supply with high supply concentration: 5 points	3	0
<b>Total</b>			<b>18</b>	<b>3</b>

To these points, one should add the points awarded to each offer for the other quality criteria (40 max) and the price (40 max).

If we assume the tenders scored equally on the non-NZIA quality criteria, for instance, 36; and if the Chinese offer was 15% cheaper, scoring 40 and the EU offer scoring 34, then the total score would be:

EU:  $18+36+34=88$

China:  $3+36+40=79$

The EU offer would win.

- However, since the contracting authorities can forego the bidder who scored best, when there is a major issue with the bid, such as 10% cost difference between the tender and the next best placed tender in case they exceed what the contracting authority considers proportionate (in this case the winning EU bid is 15% more expensive), then the contracting authority should go back to the next best ranked bidder. If all bidders fulfilling the award criteria present the same major issue, then the contracting authority should select the best bidder which ranks best without applying the award criteria (sustainability and resilience contribution) at all.
- Such a major issue occurs “where their application would oblige that authority or entity to acquire equipment having disproportionate costs, or technical characteristics different from those of existing equipment, resulting in incompatibility, technical difficulties in operation and maintenance. Cost differences above 10% may be presumed by contracting authorities and contracting entities to be disproportionate.” (article 19(4), first sentence of the proposal). It would be advisable to clarify the exact circumstances, including when the cost differences will be presumed disproportionate in the tender documents themselves.
- According to the above, the Chinese offer is 15% less expensive, so it would win, as the EU offer would be disqualified because it is more than 10% more expensive.
- If the Chinese offer would also be affected by the 10% cost difference, then the NZIA points would be disregarded and the calculation would look like this:
  - EU:  $36+34=70$
  - China:  $36+40=76$

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Art. 20

Auctions

# Example: Applying NZIA award criteria to an auction for the support of PV energy in France

- France is planning an auction for the support of 1GW of PV. The award of the auction will be based on price (70%) and the NZIA criteria on sustainability and resilience contribution (30%). The criteria related to the sustainability and resilience contribution are further broken down as follows:
  - 10% environmental sustainability;
  - 5% innovation;
  - 5% energy system integration;
  - 10% resilience.
- France receives 5 bids, 2 of which are selected as the best based on the price and non-price criteria.
- The example below illustrates how the criteria of sustainability and resilience contribution which represent 30% of the total points to be assigned would be broken down.

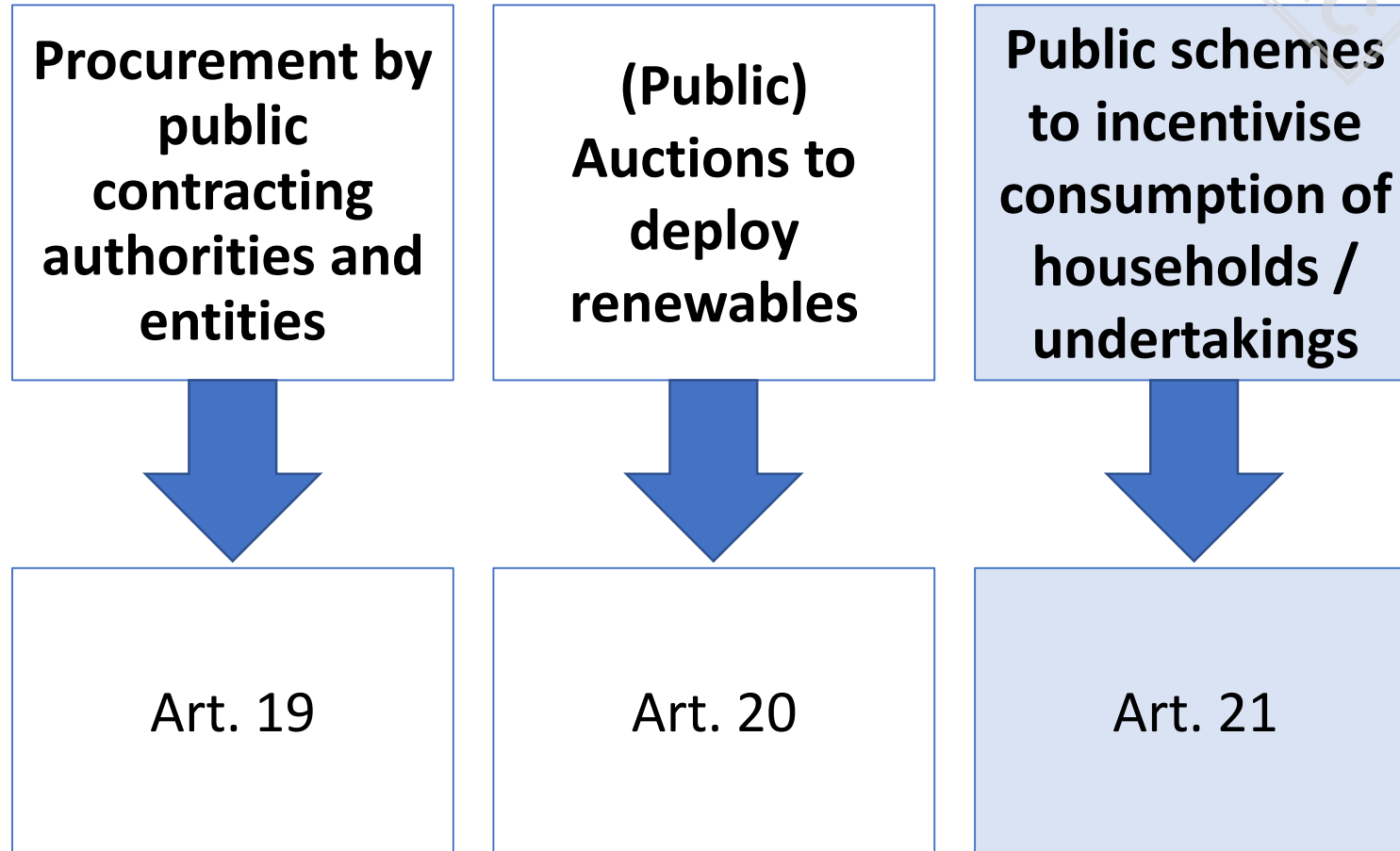
	Points Max*	Description	Bid 1	Bid 2	Bid 3	Bid 4	Bid 5
environmental sustainability going beyond the minimum requirements in applicable legislation;	10	Does not meet the criteria: 0 points Meets half of the criteria: 5 points Meets all the criteria: 10 points	10	5	5	0	0
where an innovative solution needs to be developed, the impact and the quality of the implementation plan, including risk management measures	5	No plan: 0 points Low quality implementation plan: 2 points High quality implementation plan: 5 points	5	5	2	2	0
where applicable, the tender's contribution to the energy system integration;	5	Does not meet the criteria: 0 points Meets half of the criteria: 3 points Meets all the criteria: 5 points	5	5	5	3	0
the tender's contribution to resilience (only for high supply concentration – i.e. above 65% - from one single source)	10	More than 70% of the product value originates from a single source of supply with high supply concentration: 0 points  Less than 50% of the product value originates from a single source of supply with high supply concentration: 5 points  Less than 20% of the product value originates from a single source of supply with high supply concentration: 10 points	10	10	5	0	0
Price	70		60	55	60	70	70
Total	100		90	80	77	75	70

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Art. 21

Other public intervention

# Scope of the article



# Scope of the article: 3 examples

1

**National** scheme to support the **purchase of heat pumps** by **households**

- Purchase of net/zero technology final product listed in Annex
- Targeting households



2

**Local** scheme to support the installation of **solar PV modules** at **companies' plants**

- Purchase of net/zero technology final product listed in Annex
- Targeting firms



3

**Regional** scheme to support consumption of **renewable electricity**, e.g. onshore wind

- **No purchase of direct final product**



# Article 21: Other forms of public intervention

## Implementation

Implementation steps for the public authority	Example: Scheme to support households' purchase of heat pumps
<p><i>Art 21 (1)</i> Authority designs new scheme or updates existing <b>scheme</b></p>	<p>Existing scheme: each heat pump installation is supported with a lump-sum payment of 10. Authority decides to <b>update</b> scheme in applying NZIA Art. 21</p>
<p><i>Art 21 (2)</i> Authority determines height of <b>additional financial compensation</b></p>	<p>Products with high sustainability and resilience contribution will be supported with up to extra 5% of the consumer's cost of the product.</p>
<p><i>Art 21 (3)</i></p> <ul style="list-style-type: none"> <li>Authority determines process to award pass marks</li> <li>Authority determines <b>pass mark</b> for products</li> </ul> <p><i>Art 21 (4)</i></p> <ul style="list-style-type: none"> <li>Authority makes product list public and updates continuously</li> </ul>	<ul style="list-style-type: none"> <li>Authority should make transparent how they award pass marks: <b>Criteria, weighting, threshold</b> (see examples on procurement and auctions).</li> <li>Need possibility to evaluate products <b>continuously / on a rolling basis</b>. Goal: Equal market chances for products independent of when they enter the market.</li> <li>Result: Heat pump A costs 95 and does not receive a pass mark, heat pump B costs 100 and receives a pass mark. The consumers' end cost for product A is <math>95 - 10 = 85</math>, for product B it is <math>100 - (5\% * 100) - 10 = 85</math>.</li> </ul>

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Art. 22

Coordination of  
access to market initiatives

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## Tasks of the Commission

### Enable practical implementation:

- Provide guidance on resilience and sustainability criteria as applied in Art. 19 to 21
- Update a list of net-zero technology final products incl. share of domestic EU supply

## Tasks of the Net-Zero Europe Platform

### Improve practical implementation:

- Discuss measures and share best practices of applications of Art. 19 and 21

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Other public intervention

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- **No purchase of direct final product**



# Article 21: Other forms of public intervention

## Implementation (1)

Implementation steps for the public authority	Example: Scheme to support households' purchase of heat pumps
<i>Art 21 (1)</i> Authority designs new scheme or updates existing <b>scheme</b>	Existing scheme: Authority decides to <b>set up</b> scheme to support heat pump installation with a lump-sum payment of 10.
<i>Art 21 (1) and (2)</i> Authority determines height of <b>additional financial compensation</b>	Products with high sustainability and resilience contribution will be supported. <ul style="list-style-type: none"><li>• The support for products with high <i>environmental sustainability</i> will amount to a lump-sum of 5.</li><li>• The additional support following the <i>criteria as referred to in Article 19 (2) (b), (c), (d)</i> is limited to extra 5% of the consumer's cost of the product. The authority chooses to go for those 5%.</li></ul>

# Article 21: Other forms of public intervention

## Implementation (2)

Implementation steps for the public authority	Example: Scheme to support households' purchase of heat pumps
<p><i>Art 21 (3)</i></p> <ul style="list-style-type: none"><li>• Authority determines process to award pass marks</li><li>• Authority determines <b>pass mark</b> for products</li></ul>	<ul style="list-style-type: none"><li>• Authority should make transparent how they award pass marks: <b>Criteria, weighting, threshold.</b></li></ul> <div data-bbox="1021 582 1727 729" style="background-color: #FFD700; text-align: center; padding: 10px; margin: 10px 0;"><p>Example: Next slide</p></div> <ul style="list-style-type: none"><li>• Need possibility to evaluate products <b>continuously / on a rolling basis</b>. Goal: Equal market chances for products independent of when they enter the market.</li></ul>

	Points Max (indicative)	Description (indicative)	Product A	Product B	Product C
environmental sustainability going beyond the minimum requirements in applicable legislation	30	Not going beyond minimum requirements: 0 points Going somewhat beyond: 15 points Going well beyond: 30 points	30	30	15
where an innovative solution needs to be developed, the impact and the quality of the implementation plan, including risk management measures	10	No plan: 0 points Low quality implementation plan: 5 points High quality implementation plan: 10 points	5	5	5
where applicable, the product's contribution to the energy system integration;	10	Does not meet the criteria: 0 points Meets half of the criteria: 5 points Meets all the criteria: 10 points	0	0	0
the product's contribution to resilience	50	More than 70% of the product value originates from a single source of supply with high supply concentration: 0 points Less than 50% of the product value originates from a single source of supply with high supply concentration: 25 points Less than 20% of the product value originates from a single source of supply with high supply concentration: 50 points	25	50	0
<b>Total</b>	100		60	85	20
<b>Threshold</b>	<b>75</b>				
<b>Pass</b>			<b>No</b>	<b>Yes</b>	<b>No</b>

Blue cells: make open and transparent  
Green cells: to be filled in / weighed

# Article 21: Other forms of public intervention

## Implementation (3)

Implementation steps for the public authority	Example: Scheme to support households' purchase of heat pumps																															
<p><i>Art 21 (4)</i></p> <ul style="list-style-type: none"> <li>Authority makes product list public and updates continuously</li> </ul>	<table border="1"> <thead> <tr> <th></th> <th>Product A</th> <th>Product B</th> <th>Product C</th> </tr> </thead> <tbody> <tr> <td>Product cost to the consumer</td> <td>95</td> <td>100</td> <td>90</td> </tr> <tr> <td>Subsidy according to scheme</td> <td>10</td> <td>10</td> <td>10</td> </tr> <tr> <td>Reminder: Pass mark</td> <td>No</td> <td>Yes</td> <td>No</td> </tr> <tr> <td>Additional subsidy according to sustainability and resilience contribution / pass mark – Art 19 (2) (a)</td> <td>0</td> <td>5</td> <td>0</td> </tr> <tr> <td>Additional subsidy according to sustainability and resilience contribution / pass mark – Art 19 (2) (b),(c),(d)</td> <td>0</td> <td>5%*100=5</td> <td>0</td> </tr> <tr> <td>Final cost to the consumer after subsidy</td> <td>85</td> <td>80</td> <td>80</td> </tr> </tbody> </table>					Product A	Product B	Product C	Product cost to the consumer	95	100	90	Subsidy according to scheme	10	10	10	Reminder: Pass mark	No	Yes	No	Additional subsidy according to sustainability and resilience contribution / pass mark – Art 19 (2) (a)	0	5	0	Additional subsidy according to sustainability and resilience contribution / pass mark – Art 19 (2) (b),(c),(d)	0	5%*100=5	0	Final cost to the consumer after subsidy	85	80	80
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## Tasks of the Commission

### Enable practical implementation:

- Provide guidance on resilience and sustainability criteria as applied in Art. 19 to 21
- Update a list of net-zero technology final products incl. share of domestic EU supply

## Tasks of the Net-Zero Europe Platform

### Improve practical implementation:

- Discuss measures and share best practices of applications of Art. 19 and 21
- For Example: exchange on criteria to determine list of products with pass marks and harmonize lists