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WORKING PAPER

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From:	Presidency
To:	Working Party on Competitiveness and Growth (Industry)
Subject:	Presidency Flash - Industry Working Party meeting on 13 November 2023

Working Party on Competitiveness and Growth (Industry) Flash- 13 November 2023

Dear colleagues,

We are happy to welcome you to a new meeting of the Working Party on Competitiveness and Growth (Industry).

It will be a morning-only meeting with interpretation on the 13 November, starting at 9:00 in the Justus Lipsius Building.

During the meeting we will examine the Presidency 4th compromise proposal. We will organise 3 rounds of discussion grouped by chapters as described in the table below. The recitals will be addressed at the same time that the relevant articles.

Delegations will be invited **to signal their red lines** to accept the compromise text presented **and whether they would be in a position to support it** in view of the upcoming discussion in COREPER.

Round	**Content of the 4th compromise text**
Round 1	*Scope, Permitting, Annex* • Chapter I - Subject matter, scope and definitions Chapter Ia – Net-zero technologies and strategic net-zero technologies • Annex X – List of final products and components • Chapter II- Enabling conditions (* with particular focus on the new provisions on *Net Zero Acceleration Areas*)
Round 2	*CCS and Access to Markets* • Chapter III- CO2 injection capacity • Chapter IV- Access to markets
Round 3	*Skills, Governance and Monitoring and Final provisions* • Chapter V- Enhancing skills for quality job creation • Chapter VI- Innovation • Chapter VII- Governance • Chapter VIII- Monitoring • Chapter IX- Final provisions

Attached to this Flash note, delegations will find a descriptive summary of the changes made to the last version discussed at the Working Party.

We look forward to seeing you on the 13th!
The Spanish Presidency NZIA team

Mosque / Cathedral. Córdoba. (Spain)

Annotations to the 4th Compromise Proposal

Round 1: Scope, Permitting, Annex X

Scope

In Article 3b, a new paragraph 3b(2) has been inserted in order to clearly state that the fact that despite a technology is included under the scope of the NZIA, a **Member State is not obliged to support this technology** when it is not accepted as part of its energy mix. This same principle has been instated in Article 10(5) regarding the priority status for Net-Zero Strategic Projects.

In Article 3b, a new point 3b(3) has also been inserted to clearly **delink the scope of the NZIA with predetermined allocation of funds**. The new recital (10a) explains this rationale.

Two new recitals (11-b) and (11-a) and a second paragraph in Article **2** have been introduced to clarify the **scope of the NZIA vis-à-vis that of the CRMA**.

Permitting

Building on the Dutch proposal, the new articles 8a and 8b include the concept of the **Net-Zero Acceleration Areas** (otherwise known as Industrial Valleys). The idea is to provide Member States with the possibility to use this planning instrument to take advantage of potential synergies during the permit processes of the manufacturing projects.

Annex

This revision of the text includes a proposal for a new **Annex X** as a non-exhaustive list of final products and specific components considered as primarily used for the production of Net-Zero technologies. This is a proposal of the Spanish Presidency based on the recently published study[1] from the Energy Transition Expertise Centre (EnTEC). Methodologically, the review encompassed (i) identification of final products and specific

[1] Study from the Energy Transition Expertise Centre on ' Supply chain risks in the EU's energy technologies ': https://op.europa.eu/en/publication-detail/-/publication/8f44ed20-73c3-11ee-9220-01aa75ed71a1/language-en

components, (ii) exclusion of processed materials and machinery from this list (i.e. falling under scope to be determined on case by case assessment.

Round 2: CCS and Access to Markets

CCS

The Presidency has introduced the **possibility for Member States to ask for a derogation for companies operating in their respective territories**, provided that the injection capacities that result from production in their territories are already fulfilled by at least one operator. The effect is limited to that Member State, as it is important to remind that in NZIA there are no MS targets for injection capacity. Any impact will depend on the volumes in question.

Access to Markets

Regarding Article 19 (public procurement), the **hybrid proposal presented by several Member States** during the Working Party on the 6 November had a wide support from delegations. Therefore, the Presidency has incorporated it in this new revision of the text with some amendments:

- The definition of the resilience contribution is not exclusively linked to the **figure of 65%**, but to a more general reference to "diversification of supply from single sources with high concentration of supply to the EU". The purpose is to widen the possible technologies addressed and give MS flexibility on how to apply this criterion.
- The **cost differences opt-out** in paragraph 6 has been increased up to 20% in order to adapt this figure to the calculation methodology, now based on the estimated cost of the contract (a priori).

Regarding Article 20 (auctions), taken into account the concerns raised by some delegations about the uncertainty and impact that these provisions could cause, the new text includes some provisions in order to mitigate these risks:

- Paragraph 1(b) adds the possibility for MS to apply **both pre-qualification and award criteria**.
- The definition of the resilience contribution is not exclusively linked to the **figure of 65%**, but to a more general reference to

"diversification of supply from single sources". The purpose is to widen the possible technologies addressed and give MS flexibility on how to apply this criterion.

- Mirroring the Article 19 on public procurement, an **empowerment for the Commission to define these criteria** has been incorporated in the last subparagraph of paragraph 1.
- In order to give MS time to adapt, a phase-in clause has been introduced in paragraph 4. As a consequence, taken into account that the volume of the auctioned products has impacts on the price of the bids, the 10% cost differences opt-out has been accommodated to each phase. Finally, the Presidency has introduced a control point in 2025, where the Commission will assess the proper functioning of the system and propose a new configuration if needed.

Round 3: Skills, Governance and Monitoring and Final provisions

Skills

In order to address the remaining concerns among delegations related to the subsidiarity issue, some amendments have been introduced. These are the most relevant ones:

- The **promotion of the credentials (including micro-credentials) has been deleted** in Article 1(c).
- Regarding the recognition of professional qualifications in Article 24(2), more flexibility for MS has been introduced, now considering the **credentials as a potential evidence**, and not as sufficient evidence.
- The task of the Net-Zero Europe Platform of facilitating the development of occupation profiles has been limited to those cases that are "appropriate".

Corresponding changes in Recitals (65), (66), (67) and (68) can be found.

Monitoring

Following the recommendation of the Commission during the last Working Party meeting, the provision in Article 31(5) regarding the data transmission to **national statistical offices has been deleted** has it is no longer needed.

On the other hand, as it is relevant for a proper evaluation of the Regulation, the information regarding the market trends in paragraph 31(2) has been kept but we have provided further clarification, **specifying that it should explicitly include information** on public procurement and auctions.