

TransnetBW Position Paper on Environmental Sustainability Criteria for the Public Procurement Procedures set out in the Net Zero Industry Act (NZIA)

On 16 March 2023, the European Commission (EC) proposed a regulation (document 2023/0081 (COD)) for establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem. This proposal was accepted by the European Parliament and Council on 27 May 2024. However, the Commission shall adopt an implementing act specifying minimum requirements on environmental sustainability for public procurement procedures 9 months from the date of entry into force.

TransnetBW welcomes the opportunity to provide its views on the implementing act on minimum requirements on environmental sustainability for public procurement procedures.

Executive summary

- / TransnetBW strongly supports the EC's decision to boost the production of and investment in clean technologies in Europe with the Net Zero Industry Act (NZIA), as it ensures that the EU will not suffer from a lack of manufacturing capacities, or specialised skills.
- / We propose the criteria for minimum requirements on environmental sustainability to be oriented towards harmonising existing definitions, to assure that no additional criteria need to be defined, contributing to the purpose of not further complicating public procurement.
- / For Article 25 (4a), we propose using elements of the primal proposal of the EC from 16 March 2023. For Article 25 (4b), we propose applying the already established definitions of the Taxonomy Directive (EU) 2020/852.
- / We ask the European Commission to share Best Practice Guidelines for implementing minimum requirements on sustainability in procurement which establish a uniform assessment basis/ basis for calculation to guarantee comparability of environmental sustainability across Member States.

About TransnetBW

TransnetBW is a certified electricity transmission system operator (TSO), operating the transmission grid in the German state of Baden-Württemberg. Through this grid, we ensure that electricity is supplied to the region, Germany and throughout Europe with interconnections to control areas within Germany as well as to Austria, France and Switzerland. TransnetBW is a member TSO of, among others, the European Network of Transmission System Operators ([ENTSO-E](#)) and the [Renewables Grid Initiative](#) (RGI).

For any questions related to this document please contact Transnet BW's Brussels Representative, Michael Mieszczanski at m.mieszczanski@transnetbw.de or Alanna Weigel at a.weigel@transnetbw.de.

Definitions for technical specifications (Article 25 (4a)) should follow the original proposal of the Commission

In its proposal of the NZIA on 16 March 2023, the Commission proposed contracting authorities and contracting entities consider various elements with an impact on the climate and the environment for public procurement. The proposed elements we chose from the EC's proposal are compatible with the five existing European Sustainability Reporting Standards (ESRS E1-E5).

- The ease and quality of recycling
- The consumption of energy, water, and other resources in one or more life cycle stages of the product
- The carbon footprint of the product
- Amounts of waste generated
- Emissions to air, water, or soil released in one or more life cycle stages of the product.

We propose that minimum mandatory requirements regarding environmental sustainability orient towards the elements above when taking the form of technical specifications (Article 25 (4a)). We propose using the selected elements, as they cover a broad range of environmental sustainability aspects as already defined in the ESRS.

Definitions for contract performance clauses (Article 25 (4b)) should be oriented towards existing EU definitions

The Taxonomy Directive (EU) 2020/852 defines six environmental sustainability goals. These include:

- Substantial contribution to climate change adaptation
- Climate change mitigation
- Sustainable use and protection of water and marine resources
- Transition to a circular economy
- Pollution prevention and control
- Protection and restoration of biodiversity and ecosystems

We propose that minimum mandatory requirements regarding environmental sustainability orient towards these already established goals when taking the form of contract performance clauses (cf. Article 25 (4b)). Our proposal would assure that no additional criteria on environmental sustainability need to be defined, contributing to the purpose of not further complicating public procurement.

Commission to provide an overview of existing requirements for environmental sustainability in procurement

Article 25 mentions the option to apply additional sustainability criteria. As there are numerous laws, specifications and guidelines, both at EU and at country level, it is difficult for all parties involved to keep track of applicable rules. We therefore propose for the EC to provide an overview of all applicable minimum requirements regarding sustainability criteria in procurement. Without a predefined overview, each contractor must analyse the requirements individually, which harbours the risk of different interpretations and in turn causes delays in implementation. The EC should therefore ensure that industry stakeholders are sufficiently informed about existing minimum requirements on sustainability in procurement on the one hand, and upcoming or new requirements on the other hand. This should ideally occur within a short period of time.

Also, it would be beneficial to share Best Practice Guidelines for implementing the requirements on sustainability in procurement and which establish a uniform assessment basis/ basis for calculation to guarantee comparability of environmental sustainability across Member States. Therefore, the definition and calculation or composition of KPI mustn't leave room for interpretation. An example is the calculation of a product carbon footprint: as different calculation methods can be applied, there is no comparability among products. Adding a uniform procedure to the definition of requirements on sustainability is hence beneficial.

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