Joint NGO statement on Net-Zero Industry Act (NZIA)

The European Commission’s stated intentions of both the Net-Zero Industry Act (NZIA) and Critical Raw Materials Act (CRMA) is to boost EU resilience by driving up EU-based supply chains for “net-zero technologies” and domestic extraction and processing of resources, while supporting EU 2030 energy and climate targets and developing the skills associated with the manufacturing of those technologies.

The signatories acknowledge that efforts to boost European manufacturing of clean technologies and the development of skills in those sectors – such as renewables and heat pumps – are necessary to lift bottlenecks in the Fit-for-55 package implementation phase and accelerate the transition towards climate neutrality. However, the European Commission is missing on big pieces of the puzzle: both achieving the green transition and building up a resilient EU economy cannot happen without a strong governance framework, complying with international rules, and a holistic approach between climate-biodiversity-pollution-resources. An important range of strategies are left on the side, whereas they should be at the core of EU industrial policy to ensure strategic independence, build resilience and bring together wider EU Green Deal objectives: demand-side reduction measures and sufficiency-based policies, reuse and recycling of materials and products, substitution of critical raw materials and material/energy efficiency. Europe should diversify its solutions to address this epochal challenge and go beyond a simple access-to-supply-response, which must tackle the root cause of the problems and not the symptoms. These solutions should focus on system change and avoid shifting impacts from one area to another. This system change should be based upon fundamental principles of social justice, solidarity, respect and equity.

The proposed Net Zero Industry Act (NZIA) is the first legislative step in the developing EU industrial policy area. Below are the signatories headline reactions to the NZIA:

1. EU industrial policy needs to address the converging climate, biodiversity and pollution crises together

Although the NZIA focuses on boosting domestic development of clean technologies, it reflects the European Commission’s emerging wider approach to EU industrial policy focused predominantly on the supply of abundant and affordable energy. By doing so it is ignoring the tremendous potential of complementary strategies to achieve energy security through demand-side and consumption reduction measures. Following the example set in the Electricity Market Design (EMD) proposal published on the same day, the NZIA should feature demand-side management measures to better reflect the need to address problems with the same sources, especially to avoid burden-shifting between impacts. Clearly, the NZIA needs reinforcing to make it a tool which also addresses the ecological crisis characterised by
climate change, biodiversity loss and pollution. These stem from unsustainable production and consumption patterns resulting in over-consumption of energy and resources. This means:

- The NZIA, CRMA and EMD should grasp the opportunities coming from a decisive uptake of circular economy practices and boost domestic manufacturing of mature technologies able to quickly address the climate and environmental crisis while contributing positively to security of supply in the short term by displacing fossil fuels.
- The NZIA needs to more clearly drive reduced resource use beyond recycling oriented policies. It must prioritise ecodesign of products, as well as production processes that address climate, resources and pollution at the same time. ESPR and IED are co-delivery tools of the NZIA.
- The NZIA needs to make reference to the EMD’s demand-side management flexibility to ensure that the EU’s energy system is developed to a scale that fits within planetary boundaries.

2. Only truly clean technologies should be supported

The NZIA should qualify as net-zero or strategic net-zero technologies only technologies able to help meet European Green Deal objectives in the timeframe set by the NZIA. Using a science- and evidence-based approach, such technologies need to ensure avoiding worsening crises by shifting considerable burdens of impacts and/or by capturing investments that would deliver only after 2050 at the expense of mature technologies which should be invested in immediately to deliver ahead of 2050. It should also support continued prioritisation of mitigation actions at source. This means:

- Clear priority technologies to be supported are: solar PV and solar thermal technologies; onshore/offshore wind technologies; battery/storage technologies; grid technologies; and heat pumps and geothermal energy technologies.
- Support for electrolysers and fuel cells should be aligned with a clear independent demand mapping. Renewable hydrogen use should be limited to industrial sectors that cannot be electrified.
- Carbon Capture and Storage (CCS) should be framed specifically to those sectors which require capture technologies to fully eliminate their emissions. Access should be limited to sectors where no other option is available to reduce emissions, and only for residual emissions after emissions reduction options from both technological/technique process changes and demand-side measures have been exhausted. This will maintain the incentive to reduce emissions at source over end-of-pipe technologies.
- Net-zero manufacturing projects must not be activities directly or indirectly linked to the generation of gas-fired power or nuclear power. Placing on an equal footing nuclear technologies and renewable technologies will divert large amounts of public funds from a massive deployment of renewables. According to the International Atomic Energy Agency, Small Modular Reactors time-horizon for deployment is 10-20 years, not in line with the scope of the Regulation.
- Technologies that will be supported through the NZIA, must strictly abide as a minimum by the Do No Significant Harm (DNSH) principle, therefore excluding all environmentally harmful activities from the scope.
3. An effective development of EU green industry goes beyond fast-track permitting

There is a clear tendency to question the crucial role of policies that establish an ambitious, comprehensive and verifiable set of rules, supposedly to make Europe a more business friendly place to operate, as though regulation is necessarily unfriendly to business. This is false: business friendly atmospheres are built by businesses which engage actively with local communities, welcoming discussion with stakeholders and having transparency as part of its corporate practices. Permitting authorities can help make permit granting more effective and smooth for projects in need of swift development, while striking the balance between interlinked objectives such as environmental protection, societal engagement and protection, and pollution avoidance. The NZIA needs to:

- Better fit into the existing industrial policy framework, addressing permitting in a more integrated way (Industrial Emission Directive) with potential scope overlap with the NZIA.
- Widen the role proposed for Member State authorities as “enablers”-only of strategic projects on the ground of resilience with the responsibility to also safeguard equally important governance, democracy, biodiversity and human health interests.
- Give more prominence to other ways to increase permitting quickness beyond arbitrary deadlines, namely to pre-permitting procedures with early public consultations, dedicated financial resources to Member States to dramatically increase the staff dealing with permitting procedures, mandatory digitalisation of permitting procedures.

4. Environmental objectives to weigh in systematically to strengthen resilience

The energy transition must happen within the context of the EU returning within planetary boundaries, to reduce pressures across various impacts that are resulting in worsening climate change, biodiversity loss and pollution. Provision of clean energy sources must ensure that sustainability and resilience are prioritised especially to avoid worsening existing crises or creating new problems. The NZIA needs to:

- Ensure that projects can only be labelled as strategic when meeting certain sustainability, low-carbon and circularity requirements (with this latter being addressed through design for reuse, upgrade, repair, etc. and not just recyclability).
- Mobilising public procurement in a more binding way to accelerate the uptake of strategic technologies, and strengthen the environmental sustainability requirements for public procurement, going well-beyond minimum legal requirements in applicable legislation.
- Respect long-standing EU legislation acquis on nature, which grants predictability and regulatory certainty to project promoters, while safeguarding biodiversity interests. The “overriding public interest” clause should therefore be removed from the NZIA to keep consistency.

5. Industrial development should effectively involve affected communities and the public

The emerging approach to EU industrial policy will place increased pressure on Member States and local and/or regional authorities to deliver on the reduced permitting times. Simultaneously, the involvement of civil society and wider public scrutiny are severely reduced and risk being eliminated altogether. The NZIA was not part of the Commission’s work programme, nor subjected to a public consultation prior to
its release. In the Commission’ proposal civil society organisations are not mentioned in the experts which could be invited to the newly introduced high-level advisory body (Net-Zero Europe Platform) meetings or discussions (whereas industrial federations are mentioned). In addition, there is also no mention of the needs of project proposers to engage with local communities during the design of their projects. From experience, a speeded-up response timeline by local/regional authorities serves to reduce engagement elements with local communities or reaction times by local residents or communities to official processes. Such a conflictual approach risks increasing the likelihood of litigation actions, pitting local communities against public authorities and potential employers and prolonging permitting. The NZIA should:

- Require project promoters to integrate local community engagement into project development at the design phase.
- Recognise that public ownership and the meaningful involvement of the public concerned is key to keep permitting procedures within a reasonable timeframe and to increase the social acceptance of the industrial and energy transition.

Contact information:

Doreen Fedrigo, Industrial transformation policy expert, CAN Europe
doreen.fedrigo@caneurope.org

Riccardo Nigro, Senior Policy Officer, European Environmental Bureau
riccardo.nigro@eeb.org

Camille Maury, Senior Policy Officer Decarbonisation of Industry, WWF European Policy Office
cmaury@wwf.eu