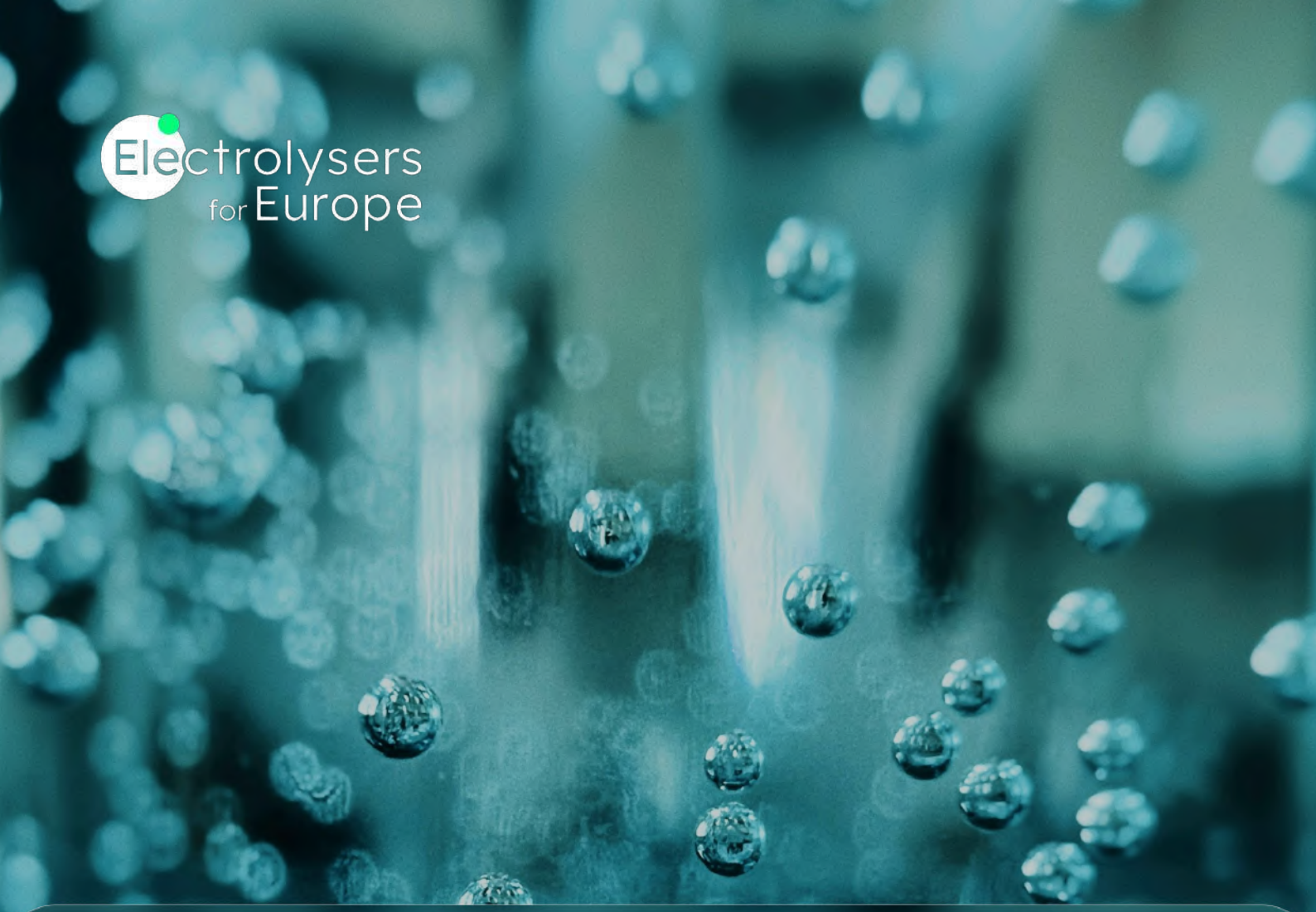

Electrolysers for Europe

The Industrial Accelerator Act

A missed opportunity to strengthen Europe's Electrolyser Industry

MAY 2026

The Industrial Accelerator Act (IAA) published on March 4th was meant to be a structural shift in European industrial policy. For the first time, the European Union proposed to systematically link access to public support mechanisms – public procurement, auctions, State aid and consumer incentives – to Union-origin requirements. It was meant to be complemented with a strong demand-side policy framework to accelerate the deployment of new European industries of the future.

However, the proposal from the European Commission needs significant improvements to have a positive impact for the European Electrolyser industry. In the absence of these changes the proposal is likely to have a fairly limited positive impact while increasing compliance costs through the value chains. These costs would certainly be justified if the positive impact can be increased by integrating the recommendations below in the proposal.

KEY RECOMMENDATIONS

1. Ensure the specific Union origin requirements (Annex II NZIA) strike the correct balance in protecting strategic, high-value components in Europe while keeping electrolysers made in Europe competitive.

2. To respect that balance, remove from Annex II the reference to the electrolyser originating in the Union, to avoid unintentionally capturing Balance of Plant (BoP) components which are not high-value and strategic by nature. Forcing the sourcing of generic BoP components in Europe would artificially increase the costs of European vs non-European electrolysers.

3. Move to Union origin requirements on a fast timeline with 3 out of 4 Main Specific Components (MSC) – as listed in the Net Zero Industry Act Implementing Act - within one year of entry into force. This balances the risk of circumvention existing with the unclear definition of stack as an MSC while maintaining flexibility to source one MSC from outside the Union.

4. In parallel to the IAA, clarify that stack origin must reflect meaningful European value creation and cannot be satisfied by final assembly alone. This can only be done by adopting a binding Customs Nomenclature for Stacks under the Union Customs Code at the next customs code revision.

5. Narrow the geographic scope of Union origin requirements to the EU and EEA, with the UK recognized as a trusted partner from day one.

6. Extend Union origin requirements for hydrogen technologies beyond auctions and manufacturing schemes to include public procurement.

7. Apply Union origin requirements to 100% of hydrogen auction volumes, particularly as Member States are able to invoke the Disproportionate Cost Waiver.

8. Include hydrogen technologies in the scope of the FDI regime, with a sector-specific threshold of EUR 30 million.

9. Strengthen lead markets for EU-produced low-carbon steel and extend the approach to fertilisers.

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1.

Legal uncertainty around Union Origin for Electrolysers, Stacks and Main Specific Components

(new Annex II NZIA “Union Origin Requirement for Net Zero Technologies”)

The Union origin requirements are operationalized in Annex II in Part II (Auctions) and Part IV (Member State support to construction or manufacturing of net-zero technologies). The proposal currently requires that "[…]the electrolyser originates in the Union and the stack and at least one additional main specific component of the electrolyser originate in the Union" within 1 year of entry into force. This is expanded to two main specific components within 3 years.

Whether an electrolyser, stack or main specific component (MSC) originated in the Union will be determined according to the Union Customs Code (UCC) framework. Yet currently none of the electrolyser technologies (Alkaline, PEM, SOEC and AEM) and many of the MSCs do not have a dedicated custom code. In addition, the relevant product-specific rules of origin are, in many cases, non-binding guidance rather than binding legal rules. This creates significant uncertainty for firms, project developers, and authorities.

This issue is further compounded by the absence of dedicated customs classifications for most MSCs. While the stack has a dedicated CN subheading, the majority of MSCs do not. As a result, origin at component level must be determined under residual rules, increasing legal uncertainty. Moreover, if dedicated classifications are introduced at a later stage, the interaction between different origin tests (e.g. change in tariff heading versus value-added thresholds) could lead to materially different outcomes if not clarified in advance.

This uncertainty is compounded by the fact that 'stack' may be interpreted in different ways. If stack origin can be satisfied through final stack assembly alone, the requirement would capture a relatively low-value activity and would not guarantee that the high-value components and manufacturing steps underpinning Europe's technological edge take place in Europe, particularly in the absence of binding and consistently applied rules of origin. Clarity on this topic is imperative since the IAA will set a legal precedent to be followed, notably by financing institutions like the European Investment Bank as well as other European funding programs e.g., H2 Global.

More fundamentally, the current reliance on non-preferential rules of origin creates structural challenges for the effective implementation of Union origin requirements. The framework assumes that goods cross a customs border and can be assessed through customs declarations and classifications. However, in the electrolyser sector, many MSCs are produced and used within vertically integrated manufacturing sites in the Union, or traded within the internal market without triggering customs procedures. As a result, components manufactured in the Union may be more

difficult to document under rules of origin than imported components, creating a potential structural asymmetry against European manufacturers. This risks placing precisely those actors the framework aims to support at a relative disadvantage.

Finally, it is unclear whether the reference to an electrolyser covers only the stack and MSC, or whether it also extends to balance of plant. The inclusion of balance of plant (BOP) would be counterproductive. BOP components are typically more commoditised, less strategic and often outside the direct scope of electrolyser OEM manufacturing, while representing a significant share of overall CAPEX. Capturing BOP would increase costs for European manufacturers without strengthening Europe's strategic electrolyser value chain, making European electrolysers less competitive versus non-EU electrolysers.

Such an interpretation would also increase the likelihood that contracting authorities invoke disproportionate cost waivers, thereby weakening the very demand signal the IAA is intended to create.

As a result, the current drafting creates significant legal uncertainty for market participants regarding the scope of Union origin requirements and the level of value that must be generated in the Union. Given that many of the relevant rules of origin under the Union Customs Code are non-binding, there is a high risk of diverging interpretations across Member States. This would lead to regulatory fragmentation and weaken the demand signal that the IAA is intended to create. Clarifying the scope of the requirement and the definition of stack is therefore essential to ensure consistent application and effectiveness of the framework. Anchoring legally binding Union origin requirements to non-binding rules of origin creates a structural weakness and increases the risk of inconsistent interpretation across Member States. In its current form, this creates a risk that Union origin requirements deliver formal compliance without ensuring meaningful European value-add in practice.

RECOMMENDATIONS

Union origin requirements should focus on high-value electrolyser components and manufacturing steps, not balance of plant or low-value final assembly.

Therefore, the reference to the electrolyser originating in the Union should be deleted from Annex II as it risks including the non-strategic Balance of Plant elements. The requirement should instead focus on the stack and main specific components.

In parallel, the Commission should ensure that rules of origin used for Union origin requirements are binding, consistently applied across Member States, and adapted to the realities of vertically integrated manufacturing within the Union. In particular, stack origin

should not be satisfied by final assembly alone without additional safeguards ensuring meaningful European value creation.

Pending such clarification, the reference to the stack originating in the Union poses a circumvention risk as it might be complied solely with final stack assembly. Since there is no rapid and precise solution to the interpretation of the definition of stack, the best way of minimizing the risk of circumvention would be to introduce a Union origin requirement of 3 out of 4 MSCs, including the stack, within one year of application instead of 3 years. Also, we anticipate public support programs for electrolytic hydrogen in Europe are more likely to materialize within 1 year of adoption rather than 3 years.

The Commission should, in parallel with the IAA process, develop a compliance approach for components that do not cross customs borders, including those produced within vertically integrated facilities or traded within the internal market, without requiring disclosure of commercially sensitive cost structures.

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2.

Geographic Scope of Made in Europe (Union origin) requirements

We are supportive of the proposal to insert Union origin requirements in public procurement (New Article 25a NZIA), auctions (amended Article 26 NZIA) and support programs by Member States for the construction and manufacturing of NZIA technologies (New Article 28c NZIA).

However, while the Union origin content is narrowly defined as content originating in the Union (Article 28(d)(1) NZIA), the provisions on content equivalent to Union origin in Article 28e, 28f and 28g NZIA considers content originating from countries with whom the EU has a free trade agreement or a customs union, or to all signatories of the WTO Agreement on Government Procurement (GPA) as equivalent to Union-origin, rendering the notion of Union-origin content meaningless. This undermines the policy objective of introducing clear demand signals for technology manufactured in the Union and trusted partner countries by making access to public financing conditional on meeting these requirements.

To meet the desired policy intent to create clear demand signals for technology manufactured in Europe, which in the case of our industry is to preserve and scale vital manufacturing capacity of electrolysers, we need to revert to a narrower geographical scope.

Instead, Union origin requirements should be defined as content originating in the Union and the European Economic Area (EEA). The United Kingdom should be recognised as equivalent to Union origin from day one, provided reciprocal market access and alignment with the Union's competitiveness, resilience and economic security objectives are maintained. The UK has played an important role in the development of the European electrolyser manufacturing ecosystem, including across both OEM manufacturing and strategic supply chains.

RECOMMENDATIONS

Delete Articles 28e, 28f and 28g and instead insert an article titled 'Equivalent to Union Origin requirements' with the following drafting:

1. For the purposes of Articles 25a, 26, 28a and 28c, Union origin refers to content originating from the Union and the European Economic Area. Content originating in the United Kingdom shall be treated as equivalent to Union origin from the date of application of this Regulation.

2. For the purposes of Article 25b, the Commission shall adopt delegated acts in accordance with Article 44 within [xx] months from entry into force of this Regulation, to supplement this Regulation by specifying, for products and services covered by Annex II, the third countries from which content shall be treated as equivalent to content of Union origin. In identifying such trusted partners, the Commission shall take into account, in particular:

(a) reciprocal international commitments such as the Government Procurement Agreement and;

(b) contribution to the Union's competitiveness, resilience and economic security objectives.

The Commission may adopt delegated acts in accordance with Article 43 to exclude a third country from a list specified in paragraph 2 of this Article in case of a serious breach of their commitments towards the Union or public order or economic security concerns.

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3.

Extend Union origin requirements to hydrogen technologies in public procurement

A large share of future demand for electrolysers will come from hydrogen production projects commissioned by entities falling under public procurement rules. Hydrogen technologies should therefore be treated consistently with other net-zero technologies already included in Part I of Annex II (e.g. BESS, solar PV, hydronic heat pumps, wind and nuclear). The absence of hydrogen from this list creates an unjustified inconsistency and weakens the demand signal for European electrolyser manufacturing.

RECOMMENDATION

Amend Part I of Annex II to insert hydrogen technologies and replicate the Union origin content requirements applicable to hydrogen in Parts II and IV, while excluding balance of plant from the scope of the requirement.

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4.

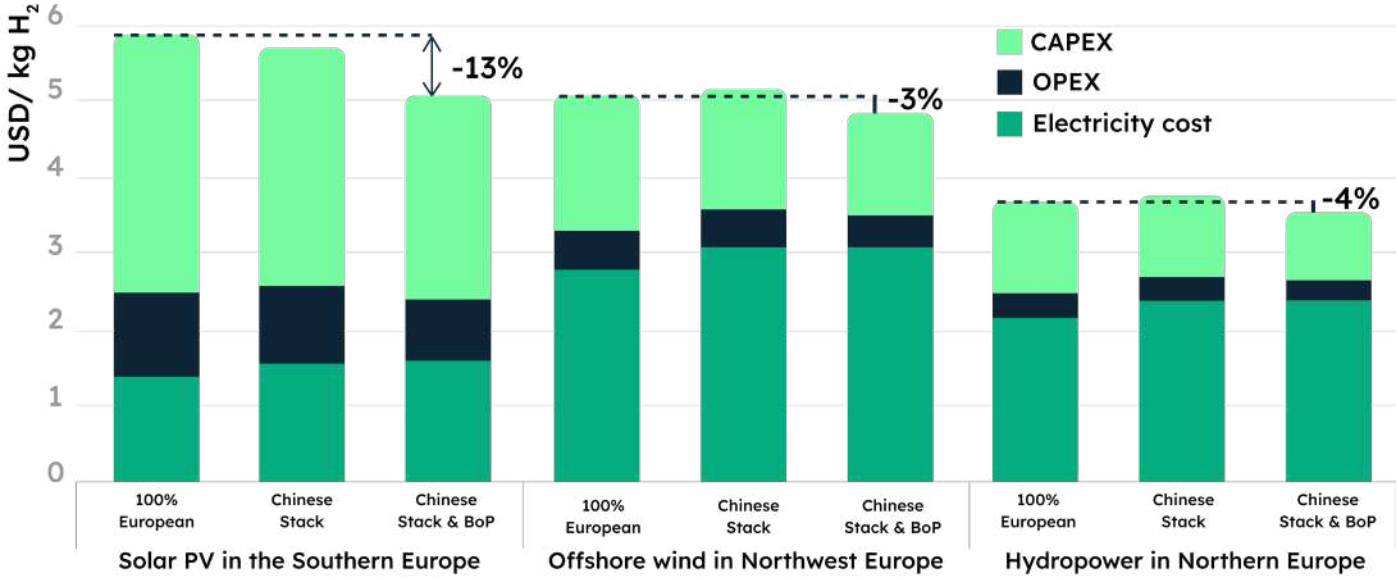
Disproportionate costs, volume of auctions and eligibility

The application of Union origin requirements is, depending on the type of public intervention, subject to limits both in terms of volumes and in terms of 'disproportionate cost' waivers.

Public authorities can waive the application of the criteria if it leads to disproportionate costs (20% for auctions – Article 26(5) NZIA – and 25% for public procurement – Article 25a(3)(c) NZIA). For auctions, this assessment should be made at project level. For public procurement, the assessment should also avoid focusing narrowly on individual pieces of equipment where this would fail to reflect full project economics.

In the electrolyser manufacturing sector, Europe represents around 30% of global manufacturing with China representing around 60%. On a stack-only or CAPEX-only basis, Chinese electrolysers are often cheaper than European electrolysers, but this does not reflect the full picture. Indeed, European electrolysers are already competitive with Chinese peers on the levelized cost of hydrogen (LCOH), and in some cases even cheaper, due to superior efficiency and lifecycle performance. Despite the cost parity on LCOH, procurement decisions continue to favor lower upfront costs, which risks accelerating market share losses for European manufacturers while the industry is in a critical scale-up phase.

Levelised cost of hydrogen production for different project configurations using electrolysers manufactured in Europe and imported from China, 2024.



Source: IEA Global Hydrogen Review 2025

Experience shows that it is very challenging to obtain objective, transparent and verifiable data from Chinese manufacturers that can be directly compared with the cost structures of European producers. Manufacturers benefiting from substantial public support, including subsidies, tax advantages or concessional financing, may be able to submit bids at price levels difficult for European manufacturers to match. Moreover, it is often difficult to transparently assess and compare the extent and nature of such public support across jurisdictions. These factors should be explicitly taken into account when assessing whether the application of Union origin requirements would lead to disproportionate costs.

To keep the requirements simple and actionable, disproportionate cost waivers should be assessed at project level wherever possible, using objective, transparent and verifiable data. Assessments should reflect full project economics and lifecycle performance rather than focusing narrowly on individual equipment costs.

More fundamentally, the current design applies a horizontal volume threshold across all net-zero technologies, without reflecting their very different levels of maturity, cost structures and strategic relevance. Treating wind, solar PV, storage and electrolysers with the same rules risks undermining the effectiveness of the instrument in taking an overly simplistic approach. In practice, Member States could over-comply in one technology and not apply Union origin requirements at all in another, thereby undermining demand visibility and investment certainty for electrolyser manufacturers.

For emerging and strategic technologies such as electrolysers, where Europe still retains a meaningful industrial base but faces increasing competitive pressure, a uniform cross-sector threshold is not appropriate. A differentiated, technology-specific approach would better reflect industrial policy objectives and ensure that demand signals are effectively targeted.

Since public authorities already retain a safeguard through disproportionate cost waivers, Union origin requirements should apply to 100% of hydrogen auction volumes. Currently these requirements should apply to at least 40% of the volume auctioned per year or 8GW (Article 26(7) NZIA), across all NZIA technologies. While we understand the rationale for a gradual or partial approach when it comes to more mature technologies, the EU is in the unique position of having sufficient electrolyser manufacturing capacity to cover its forecasted demand growth for clean hydrogen production. Applying Union origin requirements to all hydrogen auctions would only result in a limited cost increase.

If a fully technology-specific approach is not retained in the final design, two complementary adjustments could help mitigate the limitations of the current framework:

First, in addition to (or instead of) a cross-sectoral volume target (e.g. 8 GW), a minimum auction volume per technology should be defined. This would ensure that Union origin requirements are effectively applied to electrolysers and cannot be bypassed through over-compliance in other sectors.

Second, the interaction between the volume limitation and the disproportionate cost waiver should be clarified. Currently, both mechanisms can be applied cumulatively, significantly weakening the effective scope of the requirements. These should instead be treated as alternative safeguards, not cumulative ones. In practice, this would mean that Member States could either limit the auction volume covered or apply a cost-based waiver, but not both simultaneously.

Finally, to fully act as demand signal for electrolysers originating in Europe, the Union origin requirements of Annex II when relating to the MSCs should always act as pre-qualification criteria rather than award criteria.

RECOMMENDATIONS

Article 26(5) and Article 25a(3)(c) should be amended to align the disproportionate cost threshold at 25% for both auctions and public procurement, and to clarify that the assessment should be made at project level wherever possible.

Article 26(2a) should be amended to insert: 'Where auctions have hydrogen technologies listed in Annex II as part of their subject matter, Member States shall include the pre-qualification criteria laid down in Annex II.'

Article 26(7) should be amended to ensure that Union origin requirements apply to 100% of hydrogen auction volumes each year.

In the absence of a technology-specific approach, the Regulation should introduce minimum auction volumes per technology and ensure that volume limitations and disproportionate cost waivers cannot be applied cumulatively.

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5.

Making the Foreign Direct Investment Regime fit for electrolysers

The IAA proposal introduces a Foreign Direct Investment (FDI) screening regime (Chapter IV). The regime applies to investment over EUR 100M from investors coming from China, due to the requirement that the investment emanates from a country holding more than 40% of global manufacturing capacity of a given technology (Article 17(1)IAA).

The introduction of Union origin requirements may trigger a reaction by non-EU players to seek to establish a permanent presence in the Single Market with manufacturing operations either through greenfield investments or the acquisition of European companies. It is necessary to ensure that this type of Foreign Direct Investment (FDI) is meaningful and brings manufacturing capacity, Intellectual Property (IP) and know-how to Europe, instead of only assembly lines. In parallel, it is crucial to look at strategic control and ownership to ensure that those investments do not pose a strategic threat to European resilience and to closely monitor the subsidies received by those foreign entities in their home markets.

Currently the regime applies to a number of sectors (batteries, EVs, Solar PV technologies and Critical Raw Materials – Article 17(2)IAA). We believe this should be automatically extended to hydrogen technologies rather than waiting for a Delegated Act by the Commission to possibly extend the scope of the regime. This approach is backward-looking. Hydrogen technologies should not only be included once Europe has already lost its industrial position. China already holds a dominant market position in terms of global manufacturing capacity (currently around 60%). The purpose of the IAA should be to prevent strategic dependency before it materialises.

Moreover, the regime will cover very different sectors where project sizes vary greatly. For example, in sectors like batteries and Solar PV where economies of scale matter significantly and hence manufacturing projects must attain very large sizes to make economic sense, a threshold of EUR 100 million may appear as quite low. However, for projects involving the manufacturing of electrolysers, this will represent a high threshold. Therefore, a sector-specific threshold is needed. For hydrogen technologies, the threshold should be set at EUR 30 million, as many strategically relevant investments or acquisitions in the electrolyser sector would fall below the general EUR 100 million threshold.

RECOMMENDATION

> Amend Article 17(2) IAA to insert hydrogen technologies as subparagraph (d). Insert a sector-specific threshold for hydrogen technologies of EUR 30 million.

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6.

Lead markets for steel and fertilisers

The IAA proposal aims at creating lead markets for low-carbon products (Article 10IAA) through public procurement and stronger demand-side measures. It covers initially (Annex II IAA) 25% of the total volume of steel, 5% of concrete and 25% of aluminum.

Fertilisers should also be included in the lead market framework. The European fertiliser sector is highly exposed to imported fossil-based feedstocks and volatile gas and ammonia markets. Creating demand for low-carbon fertilisers would support electrolytic hydrogen uptake while strengthening Europe's resilience in a strategically important value chain.

The creation of lead markets for low-carbon products, particularly EU-produced low-carbon steel and possibly fertilisers in the future, represents an opportunity to create a meaningful demand signal for electrolytic hydrogen. Lead market development measures, such as the low-carbon steel requirement in public procurement tenders, as put forward by the Act proposal, need to be underpinned by a robust, uniform and balanced certification and labelling scheme. This is already recognised in the Act proposal. However, removing the low-carbon steel label from the Act, and moving it under a parallel workstream under the Ecodesign Framework will fail to provide a concrete and predictable legal framework for investors in low-carbon steel technologies. A clear definition must be provided in the Act's text and/or annexes, with as much detail as possible, leaving only technical elements to secondary legislation if needed, and should not be removed from the Act's framework.

RECOMMENDATIONS

Amend Article 10(1) IAA as follows: For the purposes of this Chapter, a product covered by Annex II shall be considered low-carbon when it complies with the requirements set out in delegated acts, as follows:

a) for construction products referred to in Regulation (EU) 2024/3110 and covered by a harmonised technical specification or a European Technical Assessment, the delegated acts adopted pursuant to Article 5(5) or Article 22(9) of Regulation (EU) 2024/3110, **except for hot-rolled carbon steel products, the low-carbon definition of which is described under Article 10a of this Regulation;**

b) for all other products, delegated acts adopted pursuant to Article 4 of Regulation (EU) 2024/1781, as applicable, **except for hot-rolled carbon steel products, the low-carbon definition of which is described under Article 10a of this Regulation.**

Expand Annex II IAA to include fertilisers as a priority product category for lead market development, with delegated acts to establish robust, technology-neutral greenhouse gas intensity thresholds.

Insert a new Article 10a(1) IAA as follows:

1. This Article establishes a Union label on greenhouse gases intensity of steel ('the label'). It applies to any hot rolled carbon steel product, in accordance with the system boundaries defined in Annex Ia.

2. The label shall reflect the greenhouse gases intensity of the product, and specify the system boundaries and calculation methodology for determining the greenhouse gases intensity of the product, including rules on the zero rating of fossil-free electricity and fuels, in accordance with the methodology set out in Annex Ia.

3. The performance of the product shall be determined based on a uniform classification system, in accordance with the performance classes and threshold values established by Annex Ia.

Annex Ia shall at least define the following elements:

a) performance classes ranging from A to F, based on the greenhouse gases intensity of the product, with class A representing the highest performance class and class F the lowest.

b) Where the scrap share in the product ranges from 20% to 90%, the performance classes shall be gradually adjusted to reflect and incentivise the use of recycled content

The highest performance class within the classification system corresponds to greenhouse gas intensity and production processes that are aligned with climate neutrality objectives, as laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council.

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Thank you

Feel free to get in touch with us for any questions

contact@electrolysers4europe.eu