

Our position

US industry views: the Net-Zero Industry Act



AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3.7 trillion in 2022, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

Executive summary

The Net-Zero Industry Act (NZIA) is a clear signal that the EU must take swift, effective action to maintain the competitiveness of its industry while decarbonising to meet its net-zero ambitions. The scope of the NZIA must be expanded to include sectors across the value chain and allow for competitive decarbonisation. The bedrock principle of technological neutrality should be built into each provision of the NZIA, including those on faster permitting. The legislation must further clarify carbon storage obligations for fossil fuel companies as well as funding sources for net-zero projects. To unlock the competitiveness of the EU's lower carbon energies and technologies, policymakers must prioritise streamlined access to financing. Finally, the legislation must emphasise the key roles of skills development and transatlantic cooperation in achieving the aim of the NZIA: creating the right conditions in Europe to allow industry to grow the economy and reach the EU's net-zero goals.

Introduction

Motivated by the urgent challenge of climate change and the present opportunity for net-zero economic growth, major economies worldwide are investing in industrial decarbonisation and lower carbon energy technologies. This includes the US with its landmark Inflation Reduction Act (IRA) but also China, where many of today's cutting-edge technologies are concentrated.

The European Commission's Net-Zero Industry Act (NZIA), as proposed, is a first step toward a strong European response to this global trend. It is also a clear signal that the EU's low-carbon technology economy requires speedy action from policymakers to remain globally competitive, particularly when the EU is faced with concurrent crises, including the war in Ukraine, rising inflation and a looming energy crisis.

US businesses' commitment to Europe includes reducing carbon emissions while protecting the competitiveness of business in the EU. Investment projects are assessed on a global scale, and as such the EU must offer investment conditions that are attractive compared to those in other regions. US incentives, in particular, have made investment in the EU significantly less attractive by comparison. If the Commission's plan is to provide attractive alternative industrial decarbonisation investments compared to other major economies, it must allow for predictable capital and operating expenditure support that businesses can factor into their individual investment cases. For example, the US IRA provides for 12-year investment security – as of today, EU incentives schemes provide no such certainty.

The following recommendations are designed to support the Commission's necessary and timely proposal to bolster low-carbon energy and technology manufacturing in the EU. For industries across the value chain to decarbonise and contribute to a dynamic and sustainable EU economy, the Commission must widen the proposal's scope, clarify definitions and make more available the Union's financing opportunities. The proposal should also address the role of legacy energy companies and carbon capture solutions, as well as the pressing need to invest in the low-carbon technology labour force. Finally, the Commission should deepen cooperation with like-minded major economies, like the US, as ultimately, the global challenge of climate change requires global solutions.

Scope

Technological neutrality

The development of low-carbon technologies requires a comprehensive approach that accounts for all sectors and is open to a wide range of technologies. The NZIA's provisions, particularly those that benefit technologies labelled 'net-zero technologies' or 'strategic net-zero technologies' should not discriminate between types of technologies or attempt to pick economic winners.¹ The pace of innovation in the energy and technology sectors is simply too fast for a single list to ever be exhaustive or efficiently applied. The NZIA, in its attempt to stimulate net-zero manufacturing, should not disincentivise net-zero innovation.

Instead, the EU should adopt a technologically neutral approach to its net-zero industrial strategy, similar to that of the US IRA, whereby any technology vertical that contributes to the EU's goal of net-zero emissions by 2050 can benefit from the NZIA. The EU should prioritise its desired outcome – boosting industrial production that leads to a reduction in Union emissions – rather than any one or group of specific technologies.

Value chain approach

The NZIA's selected technologies labelled as 'net-zero technologies' and a sub-set of 'strategic' net-zero technologies, as well as their applications, are not standalone. Rather, they depend on complex value chains whereby upstream sectors form the manufacturing basis of the technologies included in the current scope of the NZIA. Without increasing the manufacturing capacity of these sectors, which can include chemical manufacturing, mineral extraction, heavy industry and more, the EU will find it difficult to keep, return or develop manufacturing for its targeted technologies. Therefore, the EU should adopt a value chain approach within the NZIA, broadening its scope to include upstream sectors – such as ceramics, high value-added metals, chemicals, electronic materials, composites, polymers and biomaterials – that are critical to reaching its climate goals.

Industrial transformation

The above two points together underline what should be the main objective of the NZIA: to support the EU's industrial transformation within the green transition. The EU must enable investment across a variety of technologies applied to various sectors that decarbonises industry while bolstering the bloc's competitiveness. The NZIA's presently narrow focus risks the EU falling behind on both goals.

Moreover, the EU needs to ensure regulatory coherence between the NZIA and overlapping regulation (such as the Industrial Emissions Directive and the Regulation on the registration, evaluation, authorisation and restriction of chemicals (REACH)). Without this harmonisation, Europe risks hindering its industrial ambitions across the technologies covered by the NZIA.

¹Take, for example, sustainable aviation fuel (SAF). The IRA does not pick which technology to fund to produce SAF but instead incentivises the reduction of greenhouse gases. The SAF credit is \$1.25 for each gallon of SAF in a qualified mixture. To qualify for the credit, the SAF must have a minimum reduction of 50% in lifecycle greenhouse gas emissions. There is also a supplemental credit of one cent for each percent that the reduction exceeds 50%.

Non-discrimination

Alongside technological neutrality, the basic principle of geographic non-discrimination is key to the success of the EU's net-zero ambitions. Third-country companies contribute billions to the Single Market and create millions of European jobs by making sustainable investments in local economies. This includes the contributions of American companies, which created 4.8 million European jobs in 2021 and in the first three quarters of 2022, invested \$172 billion in Europe. The EU should acknowledge foreign direct investment's role in innovation, employment and growth in the net-zero economy and ensure that third-country entities have the same opportunity as European companies to qualify for the NZIA and other Green Deal Industrial Plan incentive schemes.

Permitting

Strategic vs. other net-zero manufacturing projects

The proposal makes what appears to be an important distinction between 'net-zero strategic projects' and 'net-zero manufacturing projects', both in art. 1 and then between art. 6 and art. 13, whereby strategic projects benefit from speedier permitting timelines than those not deemed strategic (those that do not meet the qualifications described in art. 10).

Although the Commission goes to great lengths to lay out the necessary and sufficient qualifications for a project to be deemed a 'net-zero strategic project' in art. 10, there is much less clarity on what can be considered a 'net-zero manufacturing project' and therefore benefit from the permitting timelines as per art. 6.

Any project (regardless of its development of a specific technology, as per the above recommendation on technology neutrality) that contributes to the EU's net-zero ambitions should qualify for the fastest possible permitting timelines. The challenge of the climate crisis is urgent, and the EU's regulatory environment should reflect this urgency. At a minimum, the Commission should clarify the necessary and sufficient qualifications for 'net-zero manufacturing projects' insofar as they are to remain distinct from 'net-zero strategic projects'. This would provide the investment security that industry needs to accelerate the development of lower carbon energies and technologies in the EU.

Furthermore, the ongoing review of the Industrial Emissions Directive (IED) should ensure permitting requirements for industry are consistent and that the revised IED complements the NZIA. The proposed use of time limits at each stage of the permitting process should be generalised across all permitting processes.

Finally, the EU should further align its definition of strategic technologies in the Critical Raw Materials Act with the definition used in the NZIA. These two files are inextricably linked.

Carbon storage

Carbon capture and storage (CCS) technologies are on the list of strategic net-zero technologies, and the NZIA proposes, for the first time, a legally binding target for underground CO₂ storage capacity (50 million tonnes per year by 2030).

The EU will fail to meet its net-zero emissions ambition unless it quickly accelerates and scales up the deployment of CCS. CCS is critical for the full decarbonisation of hard-to-abate sectors such as steel, chemicals and cement.

Therefore, the proposed NZIA's recognition of CCS' important role in achieving Europe's climate neutrality target is a welcome development. However, given the long lead times required for such projects and the many critical success factors across the CCS value chain – which are not directly influenced by the 2030 target – the EU's ambitions for CCS will be difficult to achieve.

The mandate on injection capacity creates supply without associated demand, since it does not address the capture and transportation elements of the value chain. This would potentially lead to billions of euros of investment into storage without any market incentive for its use or associated infrastructure buildout to make the storage viable. This, in turn, could be detrimental to energy security and further reduce the EU's industrial competitiveness. A market-based approach would be more efficient for the full value chain and minimise the cost of decarbonisation to society.

The storage requirement for the oil and gas sector does not account for the many factors outside the control of project developers. Any mandated obligations should be made conditional on storage projects meeting e-commercial, financial, technical, legal and environmental requirements such as the granting of relevant permits/licenses and the conclusion of commercial contracts for CO₂ storage services. Furthermore, certain bloc-wide and Member State rules should also be in place to facilitate the mandate, including Member State investment into CO₂ capture and transport; CO₂ accounting and liability rules, especially in cases of cross-border CO₂ value chains and post-closure responsibilities; and coordinated planning and investment processes across the capture, transportation and storage value chain.

Overall, the obligations on oil and gas companies set a troubling precedent for industry on the stability of EU fiscal regimes for investment. Obligated companies obtained licenses without any expectation of being required to invest in CCS, and imposing such a costly requirement on a single sector could impact core business models for companies committed to boosting the EU's industrial base.

Financing

The appeal of the US IRA is the predictability, size and relative simplicity of the funding support. A key difference between it and the EU framework is that CO₂ emissions reductions are allocated a tax credit under the IRA, while the EU framework sets investment incentives to avoid payment of the carbon price.

By some calculations, the size of EU funds available, particularly for renewable energy subsidies, is greater than those offered by the US IRA, yet EU support is often opaque, fragmented, difficult and time-consuming to access to the point of being rendered ineffective. To support swift investments in net-zero projects, the concept of the Net-Zero Europe Platform should be further refined to become another one-stop shop for funding support, in the same manner as applied in the proposal's permitting provisions. Companies could use the platform to identify sufficient sources of funding support for their decarbonisation projects, including compatible EU and national sources simultaneously.

Furthermore, in light of the reform of the Temporary Crisis and Transition Framework for state aid, this mechanism should also ensure that sufficient EU support is available to companies in those

countries where less national funding support is allocated. Preserving the integrity of the Single Market is key to unlocking the EU's energy and technology competitiveness.

It is also important to ensure that support for new production projects (greenfield) does not crowd out investment in decarbonising existing (brownfield) installations.

Skills

The Commission is right to recognise that the shortage of skilled workers in lower carbon energy and technology industries jeopardises the competitiveness of European industry in provisions in art. 23, which provide for the transferability of micro-credentials across Member States. The legislation should ensure job transferability across both industries and Member States.

The role of the private sector in multistakeholder reskilling and upskilling learning programmes also cannot be understated. Industry is ready to be an active contributor to skills development through the Net-Zero Europe Platform.

Transatlantic cooperation

In promoting the advancement of lower carbon energies and technologies, the EU and the US share common goals: building prosperous, resilient economies and fighting climate change. Initiatives toward these ends on both sides of the Atlantic are to be commended and should be enhanced by deep and sustained transatlantic cooperation. Given the volatile global environment, EU-US unity is more critical than ever.

American and European firms are already deeply entwined in each other's renewable energy markets through trade, foreign investment, cross-border financing and collaboration in research and development. Through fora like the Trade and Technology Council (TTC), it is vital that the EU and the US build a framework that allows the private sector to share data, collaborate on research and development and facilitate even more joint ventures in lower carbon energy. Additionally, either through the TTC and/or through the EU-US Clean Energy Incentives Dialogue, the EU and the US should coordinate their strategic investments and incentives to avoid duplication and shift supply chains away from strategic rivals.

Specifically the TTC's second working group on climate and clean technology, policymakers on both sides should work to accelerate the development of key technologies to decarbonise economies. An open approach that avoids discriminatory domestic policies will be critical in this area. The Clean Energy Incentives Dialogue should facilitate transatlantic investment in low-carbon technologies such as low-carbon hydrogen, gas and fuels. The transatlantic partners should build on previous progress around electric vehicle charging and continue to cooperate on funding and standards around joint recycling, waste management, electricity markets extension and carbon pricing mechanisms.

Hand in hand with this goal, the working group should launch a successful transatlantic circular economy initiative to facilitate the conditions for bilateral trade in reusable and remanufactured products. Such an initiative would help enable sustainable business models.

Conclusion

As a signal from the EU to industry of its commitment to competitive decarbonisation, the NZIA is a step in the right direction. As a legislative proposal, however, it does not go far enough. The EU must hastily widen the proposal's scope and clarify its key provisions. The Commission should also see industrial decarbonisation not solely as a European project, rather one that requires cooperation with the US. Going forward, American industry is committed to working with the EU to achieve its goal of boosting low-carbon energy and technology manufacturing within the bloc, and the economy along with it.