

CADWALADER  
**CLIMATE**  
Connecting Climate Change and the Law



## European Commission Announces Green Deal Industrial Plan

February 3, 2023



By **Duncan Grieve**

Special Counsel | White Collar Defense and Investigations

On February 1, the European Commission (EC) launched its **Green Deal Industrial Plan** to “enhance the competitiveness of Europe’s net-zero industry and support the fast transition to climate neutrality.” According to the accompanying [press release](#), the EC aims to provide a more supportive environment for scaling up the EU’s capacity to manufacture net-zero technologies and products. Additionally, the Plan is intended to build upon previous initiatives and complement ongoing strategies such as the **European Green Deal**.

In summary, the EC’s goals in implementing the Plan are:

- Create a more predictable and simplified regulatory environment via a proposed Net-Zero Industry Act, which is intended to provide regulatory standards to support the development of net-zero technologies across the market and support a simplified permitting framework. Additionally, the EC will propose a Critical Raw Materials Act to identify raw materials that are vital to manufacturing net-zero technologies and ensure that they are available.
- Facilitate a path to faster investment in and financing of clean technology production. In order to “speed up and simplify aid granting,” the EC intends to propose an amendment to the **General Block Exemption Regulation**, which provides that “[a]s a general rule, except for very small amounts, government aid must be notified to and cleared by the Commission before it is granted.” The regulation “exempts EU countries from this notification obligation, as long as [applicable criteria are fulfilled],” and “is designed to reduce administrative burdens on national and local authorities. This regulation is also designed to encourage EU governments to channel aid towards economic growth without giving recipients an unfair competitive advantage.” The proposed amendment would increase the threshold at which a member nation, prior to allocating public funds, would have to notify and receive permission from the bloc to do so. This change will, according to the EC’s press release, “streamline and simplify the approval” of Important Projects of Common European Interest (IPCEI). IPCEI are large transnational projects of strategic importance to the EU undertaken collaboratively by the private and public sectors.

- Encourage the development of the required skills associated with new technologies by the establishment of Net-Zero Industry Academies to provide up-skilling and re-skilling programs in “strategic industries.”
- Enhance global cooperation and improve the resilience of supply chains. The EC intends to engage with the EU’s partners, work with the World Trade Organization and further develop the EU’s network of Free Trade Agreements.

The EC intends to use existing funds to finance the development of clean technology along with its manufacturing and deployment. In order to assist Member states in accessing REPowerEU funds, the EC has adopted **guidance** that sets out the “process of modifying existing plans and the modalities for preparing REPowerEU chapters.” According to the accompanying **factsheet**, the EU has already made available EUR 250 billion for green measures, and can mobilize an additional EUR 372 billion from InvestEU for net-zero investments and a further EUR 40 billion from the Innovation Fund over the next decade. REPowerEU is a **plan** that the EU adopted following Russia’s invasion of Ukraine that “sets out a series of measures to rapidly reduce dependence on Russian fossil fuels and fast forward the green transition, while increasing the resilience of the EU-wide energy system.”

Ursula von der Leyen, President of the EC, stated that “We have a once in a generation opportunity to show the way with speed, ambition and a sense of purpose to secure the EU’s industrial lead in the fast-growing net-zero technology sector. Europe is determined to lead the clean tech revolution. For our companies and people, it means turning skills into quality jobs and innovation into mass production, thanks to a simpler and faster framework. Better access to finance will allow our key clean tech industries to scale up quickly.”

**Taking the Temperature: In addition to representing a significant investment in accelerating a green transition, the EC’s adoption of the Green Deal Industrial Plan is, at least in part, a response to the U.S. Inflation Reduction Act (IRA). The IRA contained approximately \$370 billion in climate and energy-related provisions, comprised in large part of \$121 billion of investment and production tax credits and the establishment of a \$27 billion Greenhouse Gas Reduction Fund to be administered by the Environmental Protection Agency. Overall, it is anticipated that the IRA will lead to 40% emissions reductions by 2030. In announcing the EC’s Plan, von der Leyen expressly referenced the U.S. law, **remarking** that “it is no secret that certain elements of the design of the Inflation Reduction Act raised a number of concerns in terms of some of the targeted incentives for companies. This is why we have been working with the US to find solutions, for example so that EU companies and EU-made electric cars can also benefit from the IRA. Our aim should be to avoid disruptions in transatlantic trade and investment.” Ultimately, however, the Plan recognizes the potential for trade-related disputes, and that “Europeans also need to get better at nurturing our own clean-tech industry.” We anticipate similar attempts by other countries to balance incentivizing the development of their own renewable energy industries with the goal of maintaining fair trade. However, that will be challenging to achieve based on reactions to the IRA, the Green Deal Industrial Plan, and other climate-related plans that are perceived to benefit “home” industries at the expense of global competitors. When the EU Carbon Border Adjustment Mechanism was announced – which will require foreign exporters to the EU to pay for the cost of their carbon emissions – we **anticipated** possible push back from**

**competitors as well as possible concerns over compliance with World Trade Organization rules.**