

Statement on the review of the EU Directives on public procurement | March 2025

**(Directives 2014/24/EU, 2014/25/EU and 2014/23/EU)**

Brüssel, 7 March 2025



# Executive Summary

The steel industry in Europe has embarked on the path to climate neutrality and is a pioneer in the production of CO<sub>2</sub>-reduced steel. To support this transition, the **rapid development of lead markets for clean steel is crucial**. Public procurement law plays a central role in this, but a review of public procurement law is necessary due to the complex procurement procedures and inconsistent regulations in Europe. Consequently, Ursula von der Leyen, President of the European Commission, has announced a review of the European public procurement directives to support the transformation of the European steel industry.

To make **public procurement** sustainable would have a huge impact as it **accounts for 15% of EU GDP and 11% of steel consumption**, particularly in construction and public vehicles. Currently, green procurement is only voluntary, with 55% of tenders going for the lowest price. Thus, public procurement has great potential for climate-friendly basic materials like steel and concrete, especially in construction and infrastructure projects, which account for 54% of all public contracts. Today, 28% of greenhouse gas emissions in the construction sector are generated by basic materials and can be significantly reduced in the future by emission-reduced basic materials.

The EU should therefore introduce binding sustainability criteria for public procurement to reform national regulations and promote harmonization of regulations. Clear definitions and labels such as the Low Emission Steel Standard (LESS) are playing a crucial role in closing the information gap regarding sustainability-related criteria.

Our most important aspects are:

- Developing European lead markets for clean steel based on LESS.
- Focusing public procurement directives on mandatory sustainability award criteria.
- Simplifying the rules for public procurement.
- Avoiding “National gold plating”.
- Decreasing the thresholds of the EU directives on public procurement.
- Preferential treatment of European content in sectors of strategic importance for the EU.

## Preliminary remarks

The German Steel Association welcomes the intention to revise the EU directives on public procurement. This applies to the aim of simplification and the intention to implement new regulations on the preferential treatment of EU products in areas and technologies of strategic importance. Public procurement has considerable potential for creating sales markets for climate-friendly raw materials, as it accounts for around 15% of GDP in Germany and the EU. Areas with a high demand for raw materials, such as construction and infrastructure projects, which account for around 54% of all public contracts, are particularly important. These construction projects cause around 28% of greenhouse gas emissions from the construction sector. Environmental criteria that relate specifically to material production (so-called embodied carbon emissions) have

so far only been used to a limited extent in public procurement. One reason for this is that the necessary information on environmental impacts, such as the greenhouse gas intensity of products, and progress in decarbonising the production process, is often not available or can only be determined with considerable effort. Clear definitions and labelling – such as the Low Emission Steel Standard (LESS)<sup>1</sup> – will help to close this information gap. They can relieve the burden on procurement bodies and reduce bureaucratic hurdles by providing information on the greenhouse gas emissions associated with production, and level of decarbonisation, thus ensuring greater simplicity and transparency. In addition, these clear definitions and labels provide a reliable basis for the development of lead markets.

Such lead markets for clean steel are of central importance for the national and European steel industry. The revision of the directives could make a major contribution to the development of lead markets, building on already existing labels for low-emission and near-zero steel, like LESS.

## Developing European markets for clean steel

Lead markets for clean steel are crucial for supporting the transformation of the steel sector to climate neutrality. Unlike supply side measures (push factors), such as CO<sub>2</sub>-pricing or public funding, lead markets serve to stimulate demand for low emission and near zero steel (=pull factor). Such demand-pull instruments act as a bridge element until CO<sub>2</sub>-reduced steel, which is initially more expensive than conventionally produced steel, establishes itself on the market and becomes the norm.

Establishing lead markets requires

- clear definitions for labelling CO<sub>2</sub>-reduced steel,
- tailored instruments to stimulate demand in key steel-using sectors and
- robust regulation to develop a reliable demand for clean products.

Existing labels such as the Low Emission Steel Standard (LESS), which builds on the IEA definition of near-zero emission steel endorsed by the G7 including the EU, should serve as reference points for defining clean steel, and as a basis for introducing regulatory incentives to stimulate demand for low and net zero emission steel. By now, LESS provides the most advanced framework in Europe for defining, assessing, and classifying clean steel.

Lead markets should reflect the stepwise nature of the transition towards near-zero steel production and must be compatible with the ramp-up and availability of clean energy, i.e. hydrogen and electricity. LESS offers such a framework for policymakers to set stepwise, but increasingly stringent requirements over time in line with the decarbonisation trajectory that is in line with EU climate targets.

The German steel industry strongly believes that the concept of lead markets must be combined with the aim of strengthening the resilience and strategic autonomy of the EU. **Lead markets should therefore include European content requirements** to ensure

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<sup>1</sup> [Low Emission Steel Standard \(LESS\) – Pioneering Sustainable Steel Production - Low Emission Steel Standard.](#)

that they support the transformation while securing jobs, wealth, and industrial value added within the EU. **Only based on a reliable domestic market can the EU industry achieve strategic global leadership.**

## **Focusing public procurement directives on mandatory sustainability award criteria (non-price-criteria)**

In times of a transforming steel industry - both at national and on European level - a revision of the public procurement directives is essential. Only some Member States have product-level criteria on carbon intensive materials such as concrete and steel. It is up to the EU to take a pioneering role and revise the public procurement directives as a matter of priority by, among other things, **implementing mandatory sustainability criteria when awarding public contracts.** This could be the consideration of non-price award criteria such as the recyclability of materials or the integration of (e.g. LESS-) verified clean steel.

As a result, national legislation could gain momentum in the new legislative period and national rules on public procurement would be reformed. National and European regulations could then be harmonized, which in any case must be a central aim of EU policy. On the one hand, focusing public procurement rules on sustainability is a key factor in achieving the EU's climate targets. On the other hand, implementing mandatory sustainability award criteria could help to develop lead markets by paying more or exclusive attention to clean steel in public procurement.

A usable label for clean steel has already been developed over years with the Low Emission Steel Standard (LESS), that should serve as reference point for the definition of clean steel and as a basis for the introduction of legal incentives to promote the demand for low- and zero-emission steel, thus supporting the transformation of the European steel industry. LESS provides the most advanced framework in Europe for the definition, assessment, and classification of clean steel, which would support the rapid development of (European) lead markets.

## **Simplifying the rules for public procurement**

The generally welcomed efforts to simplify public procurement rules cannot be used as a justification for raising the thresholds of the Public Procurement Directives and thus restricting the scope of application of EU rules on procurement and effective remedies. The public procurement directives – as well as the EU provisions on effective remedies – remain indispensable. Raising the thresholds of the EU Public Procurement Directives would therefore be counterproductive. The intention of the Commission regarding a simplification of the rules on public procurement, especially with a view to start-ups and innovators, is welcomed in principle. Getting access to public contracts can be very helpful for start-ups as well as innovative companies. Nevertheless, any potential specific rules for start-ups and innovators must be shaped in a way that they do not

discriminate against other stakeholders interested in getting access to public procurement markets.

## Decreasing the thresholds of the EU-Directives on public procurement

In view of the central importance of the EU Public Procurement Directives, the threshold values of the Public Procurement Directives should not be raised. An increase would lead to a restriction of the scope of application of the EU Public Procurement Directives and thus also of the EU Remedies Directives. This would impair the openness and transparency of public procurement markets and the application of effective legal remedies in public procurement. In any case, a significant increase in the thresholds would only be permitted if the thresholds of the WTO-Agreement on Government Procurement (GPA) were raised first. A general increase in the thresholds of the GPA would have negative consequences for EU industry, as it would lead to existing guarantees for the opening of important procurement markets of third countries at international level. These markets are often closed as they do not fall within the scope of the GPA or similar procurement rules in free trade agreements.

## Avoiding “National gold plating“

In particular, the fragmentation of regulations on public procurement at national, regional, and local level, the lack of harmonization with European directives and the **“gold plating” of EU regulations are leading to complex procedures and a continuing decline in the number of bidders.** This, in turn, is increasingly leading to a “one-bidder problem” and often significantly reduces competition, also to the detriment of public procurers.

A practical example of such unnecessary and detrimental fragmentation of procurement law is the various German procurement laws that exist alongside national procurement law.

Another important aspect is the fact that procurement contracts are often overloaded with contractual conditions that go far beyond the required legal framework and sometimes lead to considerable legal uncertainty. This also creates legal and financial risks for bidders. Fragmented legal regulations and overly far-reaching additional conditions lead to many companies, often including highly qualified small and medium-sized enterprises, withdrawing from public procurement markets.

The aim of revising the EU directives on public procurement must be to avoid over-regulation and to provide a clear legal framework that the member states could implement 1:1. Furthermore, the various legal regulations must be harmonized. Gold plating makes the actual simplification of procurement procedures more difficult - both on a national and European level.

# Preferential treatment of European Contents in sectors of strategic importance for the EU

The intention announced by Commission President Ursula von der Leyen to give preference to European products in certain strategic areas and technologies is an important step. It can help to strengthen the EU's strategic resilience and resistance. This applies to the areas of supply security, competitiveness and strengthening supply chains. Particularly, promoting local value creation would strengthen resilience by reducing dependencies on external supply chains. Mandatory sustainability criteria for green technologies should be introduced in public procurement tenders to fully promote the decarbonization (transformation) of the EU steel industry. This could provide positive incentives for the creation of green lead markets.

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