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**THE ROLE OF 'EUROPEAN
PREFERENCE' IN EUROPE'S
ECONOMIC STRATEGY**

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Executive Summary

Europe's trade-intensive and open business model is under unprecedented threat – with consequences not just for the EU's economic prospects but its security. As China and the US pursue active industrial policies to boost domestic manufacturing and cutting-edge innovation, European firms are being squeezed out of strategic sectors.

Leaving aside certain sectors like agriculture and defence, **the EU's economic policies have historically emphasised openness and non-discrimination to a greater extent than other major global powers. But pressure to shift away from these principles is now stronger than ever.** This is illustrated in a range of recent and upcoming initiatives – such as the Industrial Accelerator Act (IAA), Cloud and AI Development Act and the upcoming review of public procurement directives. These initiatives are likely to (for the first time) require EU Member States to pursue a 'European preference' approach in public procurement and subsidy programmes.

A European preference could achieve a number of public policy goals. But it also carries risks: a poorly designed European preference could reduce competition (in turn, resulting in public authorities paying higher prices and/or accepting lower quality products, or devoting public resources to projects that will never be sustainable), provoke retaliation from trading partners, and end up facilitating 'national preferencing' when the EU desperately needs a genuine single market. Since the majority of public procurement contracts go to bidders in the same country as the public authority, for example, a 'buy European' mandate risks not delivering European champions, but only a set of sub-scale national ones.

Any European preference therefore needs to be designed carefully. This paper proposes a toolkit to help policy makers in the design of any European preference, and to evaluate the Industrial Accelerator Act and upcoming similar proposals. Recommendations include the following.

First, the EU should consider whether **alternatives to a European preference could help deliver the desired policy objectives** without the risks and costs. One example here is improving transparency and simplicity in public procurement and subsidy schemes, since many SMEs complain of being essentially 'shut out' of the process. EU preferences could make this issue worse by adding more conditionality and complexity. Non-discriminatory regulatory solutions could play an important role – in cloud computing, for example, regulation could demand a range of technical, legal and local investment measures are in place so compliance with European values can be enforced. Tax policy remains an underused tool in many EU Member States to unlock innovation. Regulatory interventions to support switching and multi-homing – for example, so customers of the largest cloud computing companies can move at least some of their IT needs to smaller players – can also be invaluable.

Second, the EU should ensure **the right enabling conditions are in place** so that a European preference is most effective. The literature confirms that industrial policies work best in an innovation-friendly and growth-supporting regulatory environment. This requires renewed effort to develop the single market, strengthen competition policy and ensure simpler and more predictable regulation.

Third, **the objective of a European preference must be clearly identified.** Policy makers often mix different objectives – addressing supply chain vulnerabilities, ensuring the EU can enforce its laws and values, guaranteeing the EU has geopolitical leverage, providing a lead in strategic technologies, delivering the green and digital transitions, and safeguarding socio-economic stability. Policy makers



must stop implying that the same preferencing measures can simultaneously deliver all policy objectives – as the European Commission implied with its Industrial Accelerator Act proposal. These objectives can be in tension, and they lead to different policy prescriptions, so clearly prioritising them is essential to be able to evaluate whether a proposal is well-designed, targeted and likely to be effective.

One of the most important dilemmas is how to balance the objectives of resilience and socio-economic stability with growth. The goal of security- or stability-oriented measures is usually to drive down reliance on the most efficient (and therefore most popular) suppliers: so it carries (at least a short term) cost. In some markets, security measures should be adopted anyway, but treated as an insurance policy rather than a growth-enhancing measure. In others, short term inefficiencies may be outweighed by the ability to support European firms becoming internationally competitive champions. A growth enhancing approach to security would have to focus on Europe's (actual or potential) strengths by doubling down in areas where Europe has – or could have – an edge on which others depend, giving the bloc geopolitical leverage. **Europe's existing strengths are, however, chronically undervalued by policy makers.** The EU has dozens of areas where the US and China are nearly entirely dependent on it, including in lithography, B2B software, communications equipment, and industrial machinery. **The EU needs to better identify these areas; focus significant public support on strengthening and expanding Europe's indispensability in these areas; and improve its ability to leverage that indispensability to protect its interests.** This requires three related changes:

- Much of the EU's technology lead is driven by 'clusters', such as the chip-making cluster around IMEC and ASML, which rely heavily on technology spillovers from the largest firms, and significant but more niche innovation from surrounding firms. Technology leadership may require Europe to identify and focus on helping firms scale, and supporting existing large firms which provide significant spillovers.
- The EU's strengths each involve significant levels of knowhow and trade secrets. While EU policy makers fret about supporting European production, however, **too little attention has focused on addressing Member States' fragmented approach to export controls and FDI screening.** Without this, Europe will remain susceptible to technology leakage – and will continue to struggle to maintain its existing and any future technological leads.
- Leverage means nothing if you are unwilling to use it. The EU has been unable to effectively wield existing tools like the Anti-Coercion Instrument effectively and in a strategic way, largely because of the need for the European Commission to secure the support of Member States, many of which have different views about when and how to escalate geopolitical disputes. The European Commission needs tools designed to enable it to act more quickly and decisively, to better leverage EU strengths.

Fourth, assuming any European preference is necessary, policy makers should **target specific economic activities** rather than imposing blanket rules. The IAA proposal does not do this well, applying the same rules to broad categories like 'basic chemicals' which in fact comprise many different activities and challenges. Where the objective is to improve resilience and security, the EU should demand a strict approach to identifying the riskiest unilateral dependencies. Where the goal is to protect Europe's regulatory standards, policy makers should focus on markets dominated by foreign technology firms. Where competitiveness and growth are the priority, policy makers must identify



where public support will strengthen, or create, areas of comparative advantage for Europe, with a particular focus on the importance of large firms and clusters. Policy makers must take into account the reality that foreign subsidies will continue and avoid the temptation to try to 'keep up' with the US and China in every domain.

Fifth, **'European' needs to be defined**. These requirements will often need to include Europe's free trade agreement partners and/or countries which have ratified the WTO agreement on public procurement. However, this is not just a legal imperative: it makes economic sense where the objective is to improve resilience and security. Ideally, a 'club system' could enable the EU and partner countries to each support economic activities that target their respective areas of comparative advantage, helping ensure complementarities rather than stoking a subsidy race.

Sixth, **policy makers should consider the best tool for the job**. The potential for public procurement to steer demand can sometimes be overstated, given the vast majority of public procurement goes to local firms already; the most successful foreign bidders are from the UK and Switzerland which pose little risk to Europe; public authorities are not major direct buyers of some strategic or politically important products (such as semiconductors and passenger vehicles); and public authorities have not made good use of EU law provisions enabling the procurement of high-risk, high-potential innovations. This suggests public procurement should be targeted, and focused on supporting economy security (such as by purchasing sovereign cloud solutions to manage the most sensitive data) rather than growth-enhancing activities. Subsidy may be a better tool for stimulating innovation.

Seventh, **policy makers should consider how stringent European preferencing should be**. This requires a difficult balancing act: a degree of stringency is required to shift supply chains (and defeat the logic of short-term efficiencies) but if it is too stringent then firms will simply abandon the public procurement process or the subsidy programme. A realistic approach must be taken too: for example, requirements for 'foreign law immunity' will rarely if ever be plausible for EU tech firms to achieve.

Finally, **a European preference requires good governance mechanisms**. Designing a system that balances the opportunities and risks requires tough and often politically unpopular decisions to be made. These decisions require deep technical and commercial expertise and long-term thinking, as successful innovation incubators like DARPA have demonstrated. Since many significant investments require large amounts of capital and time to achieve results, finance for those investments will often require a reasonable level of long-term certainty about the broader political and regulatory landscape. Unfortunately, however, recent proposals like the European Competitiveness Fund go in the opposite direction – giving the European Commission significantly more power over where and how to distribute subsidy, aligning subsidy programmes with the political cycle, and reducing the role of independent expertise to identify the most promising projects.

This illustrates the need for Europe to be smart: prioritising its interventions, being clear about its strategy, and relying largely on the EU's 'endowed' comparative advantages. To do this, the EU needs to avoid the current siloed approach to a coherent economic strategy – which is clear not just about which sectors should be supported, which will not be, and which objectives and which tools will be used in each sector. The benefits and risks of European preferencing are context-specific. While the economic policies of the US and China in some cases directly harm European interests, that does not mean Europe can, or should, blithely follow the same rulebook. This will require a targeted and disciplined approach, informed by clear and prioritised objectives and economic realism.



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1. Introduction

Europe's trade-intensive and open business model is under unprecedented threat – with consequences not just for the EU's economic prospects but its security.¹ Europe's high-tech manufacturing industries are facing a third straight year of declining production.² And its position in technology services markets has declined significantly over the last 15 years.

China is no longer the lucrative export market for European high-tech exports it once was. Beijing is complicating access to its market. Its extensive state support for national champions and extreme levels of competition in the domestic market have helped the country's firms dominate the global supply of green and high-tech products – pushing out European suppliers. US tariffs against Chinese goods mean that even more Chinese green technologies – such as wind turbines and electric vehicles – are now landing in the European market, squeezing out local producers.³

While there have been ongoing concerns about the EU's digital, defence and (now) energy dependence on the US, these have become increasingly urgent. Trump's threats to invade Greenland, the travel bans imposed on former European Commissioner Thierry Breton and some civil society leaders, and warnings that Washington could retaliate against named EU companies operating in the US if the EU did not change its technology policies: these have all fuelled fears that Europe is excessively beholden to an unpredictable US which cares little about transatlantic relations, if not being actively hostile to the EU. European dependencies on US technology and defence are well understood. The US is becoming even more asymmetrical in its trade with the EU:⁴ imposing tariffs where Europe does not, and imposing "buy American" mandates in public procurement.⁵

In contrast to China and the US, and leaving aside certain sectors like agriculture and defence, **the EU's economic policies have historically emphasised openness and non-discrimination to a greater extent than other major global powers.**⁶ For example, more than 70% of imports entering the EU do so at zero tariffs,⁷ and OECD indicators show that the US imposes more restrictive regulations than any of the largest EU Member States.⁸ With some exceptions, foreign companies are generally free to export to the EU, acquire firms, participate in the single market and bid for public contracts outside

¹ Mario Draghi, 'One year after the Draghi Report', September 2025.

² Orgalim, 'Third year of production decline looms', press release, 2025, <https://orgalim.eu/wp-content/uploads/Orgalim-Economics-and-Statistics-Report-Spring-2025.pdf>.

³ Sander Tordoir, Nils Redeker and Lucas Guttenberg, 'How buy-European rules can help save Europe's car industry', Centre for European Reform, Policy Brief, 23 October 2025.

⁴ Unlike the US and China, the EU economy has grown more trade-intensive over time. Trade as a percentage of GDP in the EU-27 is now almost twice as high as in the US. See Aslak Berg, 'Europe and the global economic order', Centre for European Reform, Policy Brief, 22 January 2025.

⁵ Both President Biden and President Trump have adopted ever-more stringent 'buy American' rules: see Executive Order (EO) 14005, 25 January 2021 (Ensuring the Future Is Made in All of America by All of America's Workers) and America First Trade Policy Presidential Memorandum, 20 January 2025.

⁶ Those espousing the value of economic openness have not always been entirely consistent, however. The most recent example is banking where Berlin has rejected the potential takeover of German Commerzbank by Italian UniCredit, illustrating the persistence of national barriers and markets – and the political support for maintaining national rather than European markets. See Alex Daniel, 'European takeover battle heats up with UniCredit's 'unfriendly attack' on Commerzbank', *The Guardian*, 16 March 2026.

⁷ Eurostat, International trade in goods – tariffs, June 2024.

⁸ See OECD, Product market regulation indicators, 2023. The US government has continued to complain about certain non-tariff barriers, such as requirements for exporters to the EU to comply with European regional standards rather than international standards, the extent of regulatory burdens, the legitimacy of regulatory objectives and whether regulatory standards are set in an inclusive way. However, Washington has not explained how these amounts to discrimination, and many EU initiatives like the Digital Markets Act, Digital Services Act and digital services taxes do not single out American suppliers or foreign suppliers more generally. See US Trade Representative, 'National Trade Estimate Report on Foreign Trade Barriers', 2026.



of the defence sector, with only limited screening in areas directly related to security risks.⁹ The current public procurement framework adopted in 2014, for example, generally requires public authorities to treat all bidders equally, regardless of origin, and prevents arbitrarily advantaging local or EU suppliers.¹⁰ As a question of national security, the European Commission has tried to encourage Member States to de-risk from certain countries in parts of supply chains (such as 5G equipment) where national security risks are perceived as the greatest, but these rules have been narrow and specific. Policy makers' underlying presumption in the past was that Europe would benefit from globalisation and market liberalisation – the EU reaped benefits from focusing on parts of supply chains where it had comparative advantages, while relying on others where it did not.

Europe's economic growth continues to be significantly supported by growing international trade.¹¹

Despite the importance of the US and China to Europe's economy, the vast majority of the EU's trade is with the rest of the world: more than 70 per cent of Europe's goods and services exports and more than 60 per cent of its goods and services imports are from elsewhere. This should only increase (albeit modestly) with the spate of new trade agreements with countries like India and Australia which the European Commission is pursuing. A shift away from open markets therefore comes at a potentially significant cost, if it provokes retaliation from the EU's trading partners.

Pressure to shift away from these principles – a move which has long been pushed by some EU member states¹² – is now stronger than ever. The (import and export) dependencies Europe's open economic model created are now perceived to involve significant risks:

- They are increasingly viewed as creating **supply chain vulnerabilities** which reduce the bloc's economic resilience or could be deliberately weaponised (as China has already done with rare earths¹³). In some circumstances this may even amount to a risk to **national security**.
- Increasingly, policy makers are concerned that Europe may be unable to effectively regulate foreign firms in some markets, **putting at risk Europe's ability to assert its values and enforce its laws**. One example is concern about European data being accessible to foreign governments (though the degree to which this is a concern depends greatly on the country involved, for example its respect for the rule of law).
- There is a perception that, in some areas, the bloc's dependencies are especially severe in parts of the supply chain that are core to both **geopolitical leverage and future innovation** – putting Europe's future prosperity at stake. At the same time, geopolitical leverage requires maintaining a strong economy, which can only be achieved by enhancing the take-up of the best global technologies.
- While this is not a new concern, China's recent rapid advances in technologies like electric vehicles heighten long-term concerns about **socio-economic stability**. While fear about the

⁹ Gesa Kübek and Isabella Mancini, 'EU Trade Policy between Constitutional Openness and Strategic Autonomy', *European Constitutional Law Review*, vol 9, issue 3, September 2023.

¹⁰ However, certain member-state laws already allow exemptions to non-discrimination requirements in some areas, for example in defence or security-sensitive sectors. See Sarah Guillou, Florence G'sell and Fabien Lechevalier, 'Buy European Tech Act: Should Public Procurement in Digital Services Prioritize European Providers?', Stanford – Vienna Transatlantic Technology Law Forum, European Union Law Working Papers, no 119, p 31.

¹¹ Aslak Berg, 'Europe and the global economic order', Centre for European Reform, January 2025.

¹² These date back to the 1970s or earlier, for example see Peter Coffey, 'Europe – Toward 2001', *International Studies in Economics and Econometrics*, vol 35, ch 3.

¹³ In 2025, China announced sweeping restrictions on exports and re-exports of certain goods including rare earths, which would require a European company that incorporated Chinese rare earths into its products to obtain a licence to export that product.



impact of offshoring on jobs is long-standing, the astonishing speed of China's progress in sectors like the production of electric vehicles, which are important for European employment¹⁴ and its sense of identity, is faster than ever.¹⁵ These risks are fuelling political populism and extremism if de-industrialisation leads to communities being left behind. Traditional WTO-compliant trade tools increasingly look powerless – countervailing duties have done little to reduce the influx of Chinese cars into Europe, for example.¹⁶

These risks are, in some respects, quite disparate. Different types of risks come from different parts of the world. These different risks do not necessarily lead to the same policy prescriptions. And policies to address these different risks are in tension, particularly in the short term. But they are all reasons why **EU policy makers are considering whether to “tilt” the domestic playing field to benefit European companies and/or production in Europe** – for example, in terms of inward foreign investment, public procurement, and eligibility for public subsidies, including with local content requirements. A (more tentative than expected) shift in this direction is exemplified in the Industrial Accelerator Act proposal. The upcoming Cloud & AI Development Act proposal seems likely to signal a further shift towards preferencing European companies.

This explains why the EU's shift so far has been targeted, in contrast with China's large-scale subsidies and hidden barriers to foreign firms' market entry and expansion, and the US approach of blithely imposing tariffs and other forms of protectionism in violation of WTO law. The EU is, rightly, focusing its attention on internal economic reforms – such as building a more innovation-friendly regulatory environment and developing the single market.¹⁷

This paper explores how a European preference could be designed, given the difficult and sometimes conflicting policy objectives such initiatives try to achieve. This paper:

- Sets out the purposes for which a 'European preference' might be adopted, and the potential opportunities and benefits such a policy can introduce;
- Explains the costs and risks of a European preference;
- Illustrates design choices facing policy makers which wish to introduce it;
- Concludes with recommendations to ensure any 'European preference' is as effective as possible, while minimising unintended or negative consequences, particularly in the context of the Industrial Accelerator Act and the upcoming Cloud & AI Development Act proposals.

¹⁴ Tordoir et al, above n 3.

¹⁵ See Alexander Al-Haschimi and Tajda Spital, 'The evolution of China's growth model: challenges and long-term growth prospects', ECB Economic Bulletin, issue 5/2024.

¹⁶ Gregor Williams and Agatha Kratz, Rhodium Group, 'Made in Europe 2025: Can Local Content Requirements Save Europe's Auto Industry?', 24 November 2025.

¹⁷ Mario Draghi, 'The future of European competitiveness', September 2024; Enrico Letta, 'Much More Than a Market', April 2024; European Commission, 'A Competitiveness Compass for the EU', 29 January 2025.



2. Objectives and benefits

While Member States have not always agreed on this question, the EU has generally developed on the basis that Europe would benefit from globalisation and its own market liberalisation. Initiatives that diverge from this concept have traditionally been narrowly conceived. For example, these initiatives have typically addressed clearly identified competitive distortions (such as under the Foreign Subsidies Regulation) or security risks (such as the bloc's toughening rules on 5G vendors).¹⁸ These measures were adopted by Member States, albeit with various levels of enthusiasm and vigour. Industrial policy at EU level was relatively modest, focused on horizontal measures and improving framework business conditions rather than sector-specific subsidies or explicit preferences for EU production.¹⁹

Yet the growing use of subsidies and trade barriers by the US and China, along with market and technological changes are impacting Europe's supply chains, and pose risks to its regulatory autonomy, innovation capabilities and the structure of its economy. Policy makers are therefore revisiting the balance between short-term efficiencies from maintaining open trade and possible externalities. Yet the rationales, and the potential benefits, of shifting away from short-term efficiencies are multiple, overlapping and not always clearly delineated. This section seeks to categorise the different rationales and how well EU preferencing might deliver on policy makers' expectations.

2.1 Supporting national security and economic resilience

A major touted benefit of a European preference is that it might improve the bloc's security and economic resilience. While globalisation has enabled massive efficiencies through specialisation, it has also resulted in some countries having 'chokepoints' in global supply chains. The risk of 'weaponisation' of supply chains has already been seen from China, with its export restrictions over rare earths which have disrupted European manufacturing sectors.²⁰ Dependencies have also been weaponised by the US, with secondary sanctions impacting Europeans' use of payment systems²¹ and reducing Europe's autonomy over whether to export cutting-edge chip-making machinery to China.²²

European policy makers increasingly believe that Europe must more actively manage supply chain risks – particularly those types of risks that individual firms and consumers might undervalue or be unable to economically mitigate themselves. Draghi, for example, insists that Europe must use "industrial policy actively – to cut dependencies" to "build the capacity to defend ourselves and withstand pressure at key chokepoints – defence, heavy industry, and the technologies that will shape

¹⁸ The 5G toolkit recommended Member States exclude certain 'high-risk vendors' from next-generation telecoms rollouts. These rules will be strengthened under the revised Cybersecurity Act, which set up a mandatory trusted ICT supply chain security framework.

¹⁹ See Zach Meyers, 'The EU needs a bigger playing field – not a level playing field', Centre for European Reform, Policy Brief, 1 September 2022. While broad exceptions to the EU's state aid restraints have become more commonplace, this has typically been justified on the basis of temporary crises like Covid and the war in Ukraine, rather than representing a permanent shift in approach.

²⁰ Joris Teer, 'Beyond Trump: Xi's price wars and weaponisation of critical raw materials threaten European prosperity', EU ISS, 9 October 2025.

²¹ Steven Everts, 'Europe's underestimated weak spot: Financial dependence on the US', EU ISS, 19 January 2026.

²² Toby Sterling, 'ASML CEO says US desire to restrict exports to China 'economically motivated'', *Reuters*, 4 September 2024.



the future”.²³ This is illustrated in the European Commission’s December 2025 Economic Security Strategy, which promised a more proactive approach to managing risk including with more coordinated and strategic use of EU tools such as trade defence instruments and better risk assessment and information gathering.²⁴

Many recent legislative initiatives which are described as promoting a ‘buy European’ approach therefore treat de-risking and increasing supply chain resilience and diversity as clear objectives, by tilting the playing field in favour of production in Europe or in “like-minded” partners. These include the Net Zero Industry Act (NZIA),²⁵ the Critical Raw Materials Act (CRMA) and the recently published Industrial Accelerator Act (IAA) proposal.

As we note in section 0 below, **these types of laws (whether or not ‘buy European’ is the right moniker for them) can, in the right circumstances and with the right design, help boost supply chain diversity**. The Airbus case – despite involving European countries doling out WTO non-compliant subsidies – is a good example: the initiative was triggered by concerns about allowing only one foreign operator (Boeing) to dominate a sector globally and therefore made a positive contribution to resilience. However, it is unclear how easily the Airbus blueprint can be applied to other sectors with different economic characteristics, not least because the contributors to Airbus were already operating at or near the technological frontier (but simply lacked scale and coordination), whereas the temptation for much industrial policy is to support firms which have already fallen behind. In any event, supply chain diversity and resilience will not always require (and in some cases it may be actively hindered by) a sole focus on increasing domestic production and supply.

2.2 Enforcement of EU law, values and data protection

A second and related objective of an EU preference is to protect the EU’s ability to assert its legal standards and values, especially when it comes to uses of technology.

This issue has particularly come to the forefront of policymakers’ minds in light of Washington’s threats against the EU for enforcing laws like the Digital Markets Act and Digital Services Act. However, a longer-term concern relates to access to European personal, commercial and government data. EU laws like the GDPR and Data Act regulate offshore data transfers, in order to avoid data being transferred to places where data protection standards are lower than in the EU. However, foreign data-gathering laws – particularly those governing law enforcement and intelligence agency access to data – may be in tension with EU law.²⁶ In some cases (such as in relation to data-gathering laws in the US) these laws have not prevented the European Commission from determining that the US provided an adequate level of protection of personal data. However, that determination does not address the issue of industrial data and there may be data (such as data relevant for national security) which requires an even higher standard of protection than EU standards require of personal data generally. In this context, at least in some highly sensitive use cases, **an EU preference could try to minimise the**

²³ Aslak Berg and Zach Meyers, ‘Resilient growth: Aligning productivity and security’, Centre for European Reform, Policy Brief, 8 December 2025.

²⁴ DG-CNCT, ‘New measures to secure raw materials and strengthen the EU’s economic security’, news article, 3 December 2025.

²⁵ Regulation (EU) 2024/1735.

²⁶ Infamously under Section 702 of the Foreign Intelligence Surveillance Act (FISA) and the Clarifying Lawful Overseas Use of Data Act (CLOUD Act) in the US.



extent to which providers are fully outside the scope of foreign laws (known as 'foreign law immunity').

However, policy makers need to be realistic that this is rarely an achievable goal in the short to medium term. This is because most modern ICT infrastructure relies on globally integrated supply chains, including hardware components, software development and cybersecurity intelligence networks – all of which may trigger the application of extraterritorial foreign laws. While European alternatives may exist for some inputs, they will probably not exist for all of them. For example, even the European Commission's plan for AI Gigafactories, which will have to be EU-headquartered and EU-owned, will be reliant on foreign hardware and software components, such as US-designed AI chips. Assessing sovereignty primarily through the geography of infrastructure or ownership is therefore provide a weak proxy for assessing for foreign law immunity. EU providers are often subject to such foreign laws as explained in a legal opinion to the Dutch government²⁷ and as openly accepted by some EU cloud providers.²⁸

Even where it might be achievable, it can come at an enormous economic cost for the supplier concerned. To maintain foreign law immunity, the supplier will have to forgo doing business or having any significant connection with any non-EU country with laws of concern (this means even many European cloud companies are subject to third countries' laws²⁹). This forces suppliers to choose between maintaining 'foreign law immunity' on the one hand or making their services globally available. A supplier which cannot operate outside the EU will be of limited attractiveness to EU customers – many of whom do business globally and want a supplier who can service all their branches. In this way, strict 'foreign law immunity' requirements have an impact on EU customers: reducing their choices, increasing their costs, and limiting their access to non-EU technologies.

For these reasons, 'foreign law immunity' can only be a realistic and proportionate goal in the narrowest of cases.

A more realistic objective may be to ensure that, where necessary, firms delivering services to European customers and which are important (strategically or economically) to Europe, have a sufficient tangible connection to the EU – so that the bloc's values can be enforced. However, the requirement for a 'sufficient connection' to Europe does not necessarily need to rely on rules about ownership or headquarters. This could include being able to demonstrate effective legal, technical, and operational measures to ensure compliance with EU law, for example. The type of connection necessary will depend on the circumstances and context. The degree to which this is a concern also depends greatly on the country involved, for example the degree to which its law enforcement and national security agencies are constrained, the strength of institutional safeguards to protect against industrial espionage, and the country's respect for the rule of law. The measures that should be necessary should also be aligned with the relative level of risk (which requires a proper understanding of when and how foreign laws could be applied in ways which impact key EU interests), the sensitivity of the data being stored or processed, and the availability of mitigation mechanisms.

²⁷ Memo from GreenbergTraurig to Dutch Ministry of Justice and Security – NCSC, 26 July 2022, available at <https://www.ncsc.nl/api/media/sites/default/files/Cloud%2BAct%2BMemo%2BFinal.pdf>.

²⁸ See <https://us.ovhcloud.com/legal/faqs/cloud-act/>.

²⁹ Stefan Krempel, 'Canadian Court: OVHcloud from France must hand over user data', Heise Online, 26 November 2025.



These concerns were reflected in discussions about the proposed EU Cloud Cybersecurity Certification Scheme (EUCS). Proposals for that scheme might have limited the highest level of cybersecurity certification, based on criteria such as ultimate ownership, the location of data and the nationality of employees.³⁰ While the EUCS proposal was never finalised, a number of recent and upcoming EU initiatives move further in this direction. The EU's recent updates to the European High Performance Computing Joint Undertaking rules, for example, task the undertaking to be:

*based as far as possible on a European supply chain in order to limit the risk of disruptions and dependencies and to reinforce the strategic autonomy and technological sovereignty of the Union.*³¹

The amendments require the EU's Gigafactories to operate on EU territory; and participation is limited to entities established in the EU or other countries that "do not contravene the [EU's] security and defence interests". The coordinating entity must be headquartered in the Union and remain under the control of EU-based actors.³² This is meant to ensure that – even where critical hardware and software are sourced externally, which will to some extent be inevitable – decision-making authority remains European.

Another example is the upcoming Cloud & AI Development Act (**CADA**), which is expected to tie public support (such as access to publicly funded facilities and potentially some procurement or certification advantages) to EU providers. It is so far unclear how far foreign cloud and AI providers will be able to qualify for advantages under CADA, for example if they take all reasonable steps to meet stringent European data-protection and sovereignty expectations.

In summary, **the objective of ensuring a firm is immune from any foreign laws** should be pursued only in very limited circumstances, given it is rarely achievable in practice (particularly when it comes to digital services), imposes significant limitations on a qualifying European supplier's competitiveness, choices of supplier, and its ability to serve customers. In turn, that may limit the competitiveness and efficiency of downstream EU customers – which will have significantly fewer choices of suppliers.

2.3 Competitiveness and growth

The shift to a European preference is not (only) a way to improve resilience and enforce EU laws and values, but **it can also be a lever to bolster European innovation**. This is a particular problem in Europe given the inability of European companies to scale quickly thanks to the incomplete single market. This means European firms tend to pursue incremental innovation (which can be more quickly monetised) rather than higher-risk, higher-potential innovation (which often requires having as large a number of customers as possible, as quickly as possible). Clearly, an important contribution to this problem must lie in domestic reforms to the single market. But in the meantime, higher and better targeted levels of public support (whether through subsidy or, in the few sectors where there is scope

³⁰ Meredith Broadbent, 'The European Cybersecurity Certification Scheme for Cloud Services', CSIS, 1 September 2023.

³¹ Council Regulation (EU) 2026/150 of 16 January 2026 amending Regulation (EU) 2021/1173 on establishing the European High Performance Computing Joint Undertaking.

³² Ibid art 1(1)(a)(3e).



to shift significant amounts of demand to European players, public procurement) may play a temporary role in filling the gap.

Public support for innovation can be designed by subsidising supply or by stimulating demand (whether through public procurement or through subsidising private-sector purchases). Demand-led initiatives are often meant to create a “lead market”: a pocket of domestic demand for an innovative or sustainable design (for example by the public sector) which can help support the emerging technology until demand for it grows elsewhere (for example in the private sector). Academic research suggests that targeted support (either at the supply or demand side) can be effective in cases where competition is not perfect (such as where there are few competitors and large returns from scale, which mean that small firms can find it hard to scale).³³ It can help firms build a reputation, which may then attract private sector customers who would otherwise choose a more established foreign option. The firm can then use the support to benefit from learning effects: the more a firm gets experience creating a product, the cheaper the production process becomes.³⁴ This model has been adopted widely in both developing and developed countries. For example, IBM was supported and shaped by government contracts in its infancy and early development, while many US digital companies have benefited (directly or indirectly) from government subsidies.³⁵

As noted in section 0 below, however, such interventions inevitably involve constraints on competition, and in particular may limit the take-up of global technologies which could be more effective at boosting productivity and economic growth. The key, then, is to choose interventions which can be temporary and where the long-term benefits to competition and innovation outweigh any short-term costs. **Innovation and growth impacts tend to be most pronounced when they improve competition (over the long run), enable a new innovation to make it to market, or support the emergence of entirely new markets,**³⁶ and less helpful when primarily supporting incumbents or copy-cats. This points to a 'growth oriented' EU preference being tightly targeted. For example, in sectors where many firms are still vying for a place in the market, or where there is a 'chicken-and-egg' problem in that supply is constrained because demand is not yet present, EU preferencing can potentially play a positive role.

2.4 Expanding market access

State support and domestic preferencing have helped China and the US nurture its own industries and, in China's case, come to dominate export markets in sectors in which Europe had hoped to be a global leader – including electric vehicles and renewable energy. The US, launched massive subsidy programs under President Biden (which largely remain in place) which are now, under President Trump, coupled with higher tariffs on imports from most of the rest of the world to promote local re-industrialisation. In this context, tools which can be used to close down access to the European market can be used as leverage, to help persuade Europe's partners to drop their own “buy national” policies, opaque subsidies or procurement barriers.

³³ Richard Baldwin and J Richardson, 'Government purchasing policies, other ntbs, and the international monetary crisis', Ottawa: Carleton School of International Affairs, 1972.

³⁴ Guillou et al, above n 10, p 42. This is somewhat related to the 'infant industry' theory, which suggests that firms in nascent sectors may require a degree of protection from international competition.

³⁵ Mariana Mazzucato, 'The Entrepreneurial State: Debunking Public vs. Private Sector Myths', Anthem Press, 2013.

³⁶ Tristan Beucler and Neil Makaroff, Strategic Perspectives, 'Lead markets: driving net-zero industries made in Europe', 2025.



This has been a key justification for recent so-called 'economic defence' tools. For example, the Foreign Subsidies Regulation (FSR) and International Procurement Instrument (IPI) could limit foreign companies' ability to participate in European markets. The key is that these are primarily limited to ensuring reciprocity. For example, the IPI allows the European Commission to impose retaliatory measures if a non-EU country provides preferential treatment to its own firms in public procurement. These tools therefore do not identify and nurture any particular European economic activities. They were originally envisaged as tools to pry open third countries' markets to allow European exports and investment, rather than to exclude others and encourage local European production for its own sake.³⁷ Even these recent attempts to help improve Europe's resilience have therefore not explicitly given preferences European companies at the EU level – and have focused instead on limiting certain countries' opportunities in Europe. A defining feature of these instruments is that they have very rarely been used,³⁸ though they may nevertheless have had a deterrent effect.

Echoes of this objective are reflected in parts of the IAA proposal. For example, as noted below, the IAA treats content from certain third-party countries as if it was European.³⁹ However, the European Commission is entitled to exclude a third-party country for certain reasons, including (but not limited to) where the third country fails to act in a reciprocal way. The intent of these provisions is presumably to allow the EU to retaliate, and therefore to dissuade other countries from adopting their own 'buy national' rules which disadvantage EU content.

2.5 Protection of incumbent jobs, firms and industries

A long-standing but distinct objective of a European preference might be to preserve socio-economic stability, particularly when existing industries or industrial sectors are facing rapid change or decline.

This is not a new concern: off-shoring, particularly to China, and its impact on jobs in Europe has been a concern since the 1990s. China has created an economic model where companies benefit from substantial state support – significantly more than in OECD countries.⁴⁰ Research covering firms in 13 sectors showed state support amounted to 4.5 per cent of the revenues of Chinese firms against 0.69 per cent in OECD countries. China has also benefited from (at least in some sectors) a hypercompetitive cutthroat domestic market, with domestic profit margins collapsing for many Chinese firms,⁴¹ and forced technology transfers from Western firms. This strategy has helped Chinese firms dominate globally in sectors where Europe thought it had an advantage.

What is different now is the pace of change – as illustrated by China's recent rapid advances in technologies like electric vehicles⁴² – and that China's technological sophistication, its economic model

³⁷ Meyers, above n 19.

³⁸ An exception is that the European Commission investigated the award of Bulgarian public procurement contracts to three Chinese firms including a subsidiary of CRRC (in the latter case the Chinese company withdrew). See https://ec.europa.eu/commission/presscorner/detail/en/ip_24_887 and https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1803

³⁹ See IAA proposal, art 8.

⁴⁰ 'Government Support in Industrial Sectors: A Synthesis Report', OECD, April 2023.

⁴¹ "The evolution of China's growth model: challenges and long-term prospects", ECB Economic Bulletin, Issue 5, 2024; see also <https://substack.com/redirect/7e012b09-26e0-4a3e-95a3-13384eef4d43?j=eyJ1joiNHc1MmdqIn0.xpDnshE9s7LHF9yXo-XNHtFbYHNaGnZAh35ipKqVCh8>.

⁴² Tordoir et al, above n 3.



and protectionism are squeezing out many of the remaining ways in which China was a valuable export market for Europe, while also squeezing out opportunities for European companies to export to third countries.

The EU has adopted an International Procurement and a Foreign Subsidies Regulation, which allow the EU to respond where the European Commission considers this necessary to respond to other countries' foreclosing procurement to European firms, or to foreign subsidies which distort competition in Europe. While they may have had a dissuasive effect,⁴³ neither of these instruments has been used extensively, while their lack of strategic focus means that they have imposed significant costs on private sector firms (and required significant regulatory resources) to examine routine transactions in relation to non-problematic countries (even including EEA/EFTA countries in some cases). In the meantime, the instruments have had no substantial impact on US or Chinese economic policy.

This gives long-term concerns about socio-economic stability a new sense of urgency – and risks fuelling political populism and extremism if communities are left behind.

The desire to protect of incumbent firms, sectors and jobs is illustrated in the European Commission's decision in 2022 to loosen state aid rules in order to insulate energy-intensive economic sectors from higher energy prices. While much depends on the design of industrial policy, **trying to protect industries from structural, technological and market developments can be very expensive and is rarely growth-enhancing**. The 1993 Buy American Act, for example, had a primary objective of protecting American jobs. Yet it is estimated to cost (in the form of inflated public procurement costs) approximately \$112,000 and \$138,000 per job saved in the manufacturing sector.⁴⁴ The cost comprises about 5 to 10 percent of the total value of procurement, which US taxpayers pay through inflated prices for public purchases.⁴⁵ These costs mean that these programmes tend to achieve their goals of protecting jobs in certain sectors, only at the cost of jobs elsewhere. Research by Dixon, Rimmer, and Waschik indicates, for example, that removing 'buy American' jobs would create 300,000 more jobs than would be lost – though at the cost of some temporary economic disruption.⁴⁶

This indicates that 'buy European' mandates should not be used purely to 'save' jobs or incumbent firms or sectors – unless the sector is important for economic security or to maintain 'know-how' in Europe to enable future innovation where Europe could leapfrog other parts of the world. At best, a European preference could be used as a way to attempt a 'managed decline': accepting that economic dynamism requires resources to shift between sectors over time, while slowing that shift to provide more time for governments to put temporary support schemes and adjustment policies in place.

⁴³ This appears to be the rationale for the UK adopting a similar instrument: see UK Department for Business and Trade, 'Call for input on potential powers to protect the UK from adverse economic pressure', 9 April 2026.

⁴⁴ Matilde Bombardini, Andres Gonzalez-Lira, Bingjing Li & Chiara Motta, 'The Increasing Cost of Buying American', NBER Working Paper, September 2024.

⁴⁵ Gary Clyde Hufbauer and Euijin Jung, "'Buy American' Is Bad for Taxpayers and Worse for Exports', PIIE, 5 September 2017.

⁴⁶ Peter B. Dixon, Maureen T. Rimmer and Robert G. Waschik, 'Macro, Industry and Regional Effects of Buy America(n) Programs: USAGE Simulations', CoPS Working Paper No. G-271, April 2017.



2.6 Complementarities and tensions

EU policy makers often suggest that the same ‘European preference’ measures can promote resilience, growth, ensure greater sovereignty and protect key sectors all at the same time. For example, the European Commission’s narrative around the Industrial Accelerator Act mixes various objectives. The European Commission sometimes implies the law intends to address the fact that “key technologies underpinning the green and digital transition ... are currently exposed to strategic dependencies and supply chain risks”.⁴⁷ Other times the European Commission suggests the law’s goal is to “boost demand for European low-carbon products and net-zero tech”.⁴⁸ At other times it appears to be intended to protect employment, decrying that “manufacturing as a share of EU GDP declined from 17% in 2000 to 14% in 2024”.⁴⁹

The same example of confused objectives is the European Commission’s own internal ‘Cloud Sovereignty Framework’ (CSF).⁵⁰ The framework helpfully sets out a taxonomy of different ‘sovereignty criteria’ – assessing everything from a firm’s alignment with EU strategic priorities, to the resilience of its supply chain, to the level at which security measures are controlled within the EU – and recognises that firms might deliver well on some of these criteria but less well on others. However, the document ultimately subsumes these into a single combined ‘sovereignty score’ for public procurement purposes. This approach avoids tackling the question of what the European Commission’s different objectives might be and reflecting that different criteria matter more to achieve some objectives rather than others. The CSF would also need to take costs into account – for example, if criteria exclude providers from participating in public-sector contracts, then this may lead to reduced competition, higher prices, and less innovation. That could indirectly undermine other important public policy objectives like cybersecurity and digitisation.

Without clear and prioritised objectives, we cannot evaluate whether a proposal is well-designed, targeted and likely to be effective. Policy makers therefore ought to be clear and specific about the objective which any ‘European preference’ initiative seeks to achieve, and how to prioritise those objectives.

One of the most important potential contradictions is between security and growth – since often the goal of security-oriented measures is specifically to drive down reliance on the most successful suppliers. This is unlikely to enhance growth. The approach is better treated as an insurance policy. However, if the target activity is chosen well, even these different objectives can be complementary if viewed over the long term. For example, the Airbus initiative was originally intended to boost economic resilience and national security: by ensuring Europe was not reliant on a single foreign monopolist in a security-sensitive sector. This initially meant subsidising an actor which was not profitable for a long period of time as it built scale. However, Airbus eventually became market-leading globally – contributing to economic growth and providing significant returns for the venture’s state backers. In other markets, if one successful supplier is able to drive out enough competition that it could increase its prices over the long run, it might also be beneficial to support an alternative (though that need not necessarily be European, a point we will return to in section 0 below).

⁴⁷ Industrial Accelerator Act, Impact Assessment, SWD(2026) 72 final, Executive Summary p 1.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ European Commission, ‘Cloud Sovereignty Framework’, v 1.2.1, October 2025.



However, there is another and more 'offensive' approach to ensuring resilience – which is to **ensure Europe has – and can make geopolitical use of its – countervailing strengths**. Even in the technology sector, Europe's **dependencies even today are not as unilateral as is often assumed**. A recent report from the Geostrategic Europe Taskforce identifies 41 critical chokepoints where China depends on the EU for more than 80 per cent of its imports, and 67 such dependencies for the United States.⁵¹ For example, Europe plays an indispensable role in providing trustworthy communications network equipment, B2B business software such as customer relationship management and enterprise resource planning platforms (many of which are deeply embedded in US public authorities), and lithography equipment (and related services) essential to produce cutting-edge chips.⁵² The EU needs to better identify these areas, provide support to strengthen and expand Europe's indispensability, and – even more importantly – develop a mechanism to be able to exercise that leverage where necessary.⁵³

European preference may have a role here, but it will need to be targeted at cases where Europe has a chance at being a global "gatekeeper". In this context, **the goal of a European preference would be to create "lead markets" that build off existing European strengths and support innovation and scale**: aligning resilience with the economic growth objective. However, since the EU already has unsung strengths, **the more important step is not economic but political**. The EU has proven unwilling or unable to effectively wield existing tools like the Anti-Coercion Instrument effectively, largely because of the need for the European Commission to secure the support of Member States, many of which have different views about when and how to escalate geopolitical disputes. A political consensus will be required to enable the European Commission to act more quickly and decisively where necessary.

The greatest need is to avoid direct conflicts between objectives, or at least to have honest discussions about trade-offs. The Union's recent decisions to allow Member States to provide ongoing support for energy-intensive sectors, for example, may benefit European industry: but it runs in tension with the EU's broader policy goals of achieving decarbonisation and shifting to cheaper renewable energy. This illustrates how industrial policy can sometimes be advanced in isolation from broader political goals. It also illustrates that an 'EU preference' can be in tension with economic growth if it delays necessary structural changes to the economy and does not help nurture innovation.

⁵¹ Jonathan Barth and Andreas Eisl, 'Relearning the Language of Power: Geopolitical coalitions and pooled geoeconomic deterrence as Europe's plan B for a post-WTO world', Geostrategic Europe Taskforce, 2026.

⁵² Matthias Bauer, Dyuti Pandya and Oscar du Roy, 'Openness as Strength: The Win-Win in EU-US Digital Services Trade', ECIPE, March 2024.

⁵³ Zach Meyers, 'Can the EU Reconcile Digital Sovereignty and Economic Competitiveness?', CERRE, September 2025.



3. Cost and risks

As explained above, a carefully calibrated European preference may have benefits and could contribute to important policy objectives. However, most of the academic literature assessing the value of 'buy local' rules focuses on their potential value for developing countries with a clear goal of trying to industrialise, rather than developed countries like the EU which have a range of different objectives, not all of which are very relevant to developing countries.⁵⁴ Even in the developing country environment, the success of 'buy local' rules seems to be context-specific, and reliant on making high-risk choices about which activities to support.⁵⁵

Some objectives also seem to be better achieved than others. For example, while China's industrial policy has had some notable successes – such as its growing success in EVs and legacy chip-making – economists widely concur that it has had massive failures. For example, despite spending several hundred billion dollars in support, China has been unable to achieve self-sufficiency in chip-making (particularly for the most advanced chips).⁵⁶ The economic model China has adopted to support widespread industrial policy – which requires suppressing household income to channel funds towards investment – has led to massive economic disruption, with excessive competition leading to many firms operating at a loss and labouring under very large amounts of debt, and suppressed growth rates.⁵⁷ China has therefore improved supply chain resilience and its geopolitical leverage, but at massive economic cost. It is, in any event, unclear that China's policies or their consequences would be politically acceptable in market-led democracies.

Recent US industrial policy has similarly been fuelled by public debt. While it has largely been aimed at achieving 're-industrialisation', its success has been relatively modest despite coming at very significant cost.⁵⁸ Much of the US economic success has come from high-tech digital markets and AI, where the role of US preferencing has been much less direct and prominent. In areas where there has been significant public support, such as semiconductor manufacturing, the US still remains reliant on Taiwanese-produced cutting-edge chips

In this context, the value of the EU shifting away from its traditional insistence on a level playing field deserves scrutiny. It is therefore worth revisiting the risks associated with EU preferencing, to help understand how initiatives can be designed to minimise these risks.

3.1 Distortions of competition

In public procurement, shifting away from either price or value for money as the dominant decision-making criteria **may mean accepting lower levels of, or distortions in, competition**. Proponents of a European preference may argue that the point is not to drive foreign suppliers out of the market.⁵⁹

⁵⁴ SY Oh, 'China's race to the top: regional and global implications of China's industrial policy', *World Trade Review*, vol 20, issue 2, 2021. For example, EU objectives include sometimes include to protect incumbent industries (which is less often a developing country concern, since their objective is more often to nurture infant industries which do not yet exist at scale).

⁵⁵ F Scheifele, M Bräuning and B Probst, 'The impact of local content requirements on the development of export competitiveness in solar and wind technologies', *Renewable and Sustainable Energy Review*, 2022, p 168.

⁵⁶ Antonio Varas, Raj Varadarajan, Jimmy Goodrich, and Falan Yinug, 'Government Incentives and US Competitiveness in Semiconductor Manufacturing', 2020.

⁵⁷ Jeremy Mark, 'China's economy remains trapped in the doldrums', *Atlantic Council*, 18 September 2025.

⁵⁸ Gary Hufbauer and Euijin Jung, 'Making US Industrial Policy Effective', *Institut Montaigne*, 19 January 2022.

⁵⁹ Cristina Caffarra, 'Again: EuroStack is an Industrial Project', *Escape Forward Substack*, 2 January 2026.



However, unless it makes no difference to procurement outcomes,⁶⁰ a 'buy European' preference will inevitably involve making some choices which are not solely based on (short-term) price and quality. This can be a particular concern in public procurement, with evidence that the level of competition for public contracts in the EU has been decreasing over time:⁶¹ a problem which an EU preference could make worse. In the meantime, the stubborn weakness of cross-border procurement makes it less likely that a European preference would result in an emergent class of efficient EU-wide providers.

In principle, the same problems apply to delivering subsidies, if it is conditioned on local content requirements as in the Industrial Accelerator Act. Subsidy is most efficiently delivered by selecting the most promising firms and solutions regardless of criteria such as the country of origin of the company or the location of its suppliers. This explains European carmakers' complaints that the Industrial Accelerator Act proposal would increase their costs and undercut their global supply chains.⁶² European carmakers have highly integrated global supply chains, meaning many may not benefit under the law without substantially reworking their supply chains in ways that would raise their costs and reduce their global competitiveness.

There is a significant difference between supporting a firm at an early stage of R&D (where competition is unlikely to be well developed) and doing so to support a firm's operational costs in a mature market. In the latter case, a subsidy may nevertheless help level the playing field if foreign suppliers are themselves subsidised or enjoy artificial advantages (as long as Europe can keep up with the levels of support provided by third countries – which is not a foregone conclusion). If poorly designed and targeted, however, **subsidies delivered only to European firms risk throwing public money towards suboptimal solutions that could never survive. Even if those solutions could survive in a perfectly competitive market, they also need to survive in the real world, where some third countries will continue to provide significant levels of foreign government support.** Targets for European support must therefore be identified not through lobbying by incumbents but an expert and evidence-led process. There similarly needs to be an 'exit strategy' so politicians do not continue to throw support to a disappointing project because of the political costs of admitting failure.

Distortions to competition can be particularly acute when they involve trying to shift demand away from existing providers – rather than to unlock the *ability* to switch, and to create new suppliers in new markets. For example, in key areas like cloud computing, non-US firms do not currently offer the same scope of services, with the same features (including high levels of cybersecurity).⁶³ For customers not already using the cloud, this raises questions about whether it is better to prolong the existence of legacy solutions (such as on-premises computing, which can often be less secure) if a European alternative is not yet available. For those customers already using the cloud, regulation can help ensure there is no artificial barrier to switching. However, even without such barriers, switching to a European player is likely to require staff retraining, reconfiguration and rewriting of a firm's software so it works in different cloud environments. It may require the customer to in turn switch away from other downstream suppliers who may not be able to work with the new cloud provider, and it may imply potential changes or reductions in the quality of the firm's own services. Cybersecurity and

⁶⁰ The EU's initiatives including the IIA do generally include exceptions where the cost of preferencing is deemed to be 'too high' but these are often relatively low thresholds, raising the risk that instead preferencing does not impact purchasers' buying behaviour at all.

⁶¹ European Court of Auditors, 'Special Report: Public procurement in the EU', 2023.

⁶² Jordyn Dahl, 'EU car rescue plan sparks industry civil war', Politico, 4 March 2026.

⁶³ Babara Moens, Sebastian Ash and Florian Müller, 'European businesses warn Brussels over push to end reliance on US tech', Financial Times, 13 March 2026.



operational resilience, for example, are areas where some European business customers perceive the US hyperscalers to offer a superior service to local equivalents. This is despite the largest global cloud providers often being more expensive than their local equivalents.⁶⁴ **In this context, the most importance steps are to enable switching,⁶⁵ ensure customers are able to ‘mix and match’ different cloud solutions (so they can switch to smaller cloud companies for some services, even if the smaller cloud service cannot supply all the services of a larger player), and tackling the underlying reasons why European-produced products are not competitive is essential. Without tackling the underlying problems, EU preferencing is unlikely to deliver long-term benefits which outweigh the short-term costs.**

The potential inefficiency costs highlight why **European preferencing in procurement should be limited to the public sector, rather than being imposed on the private sector.** If the EU were to intervene in private purchasing decisions, the economic costs can ricochet, because the procurers are forced to purchase inputs which are (at least in the short term) suboptimal, hindering their own competitiveness in downstream markets. This means the negative costs can be significant and impact many different supply chains. Limiting EU preferencing to public procurement still has costs, which will usually be realised in the form of higher bid prices (or lower quality) in public procurement exercises. That may flow through to less public sector efficiency – for a sector which is already significantly less productive than the private sector in Europe to begin with and therefore has the most to gain from take-up of innovations. However, any financial cost can be spread across taxpayers generally and is primarily an opportunity cost.⁶⁶ The IAA, in any event, allows certain exemptions – for example, public authorities are able to freely choose a non-European tenderer – where the costs are too great. This reflects the EU’s existing directive on utilities sector procurement, which allows EU Member States to reject bids that do not include 50% EU content (unless the tender is covered by the WTO GPA or a bilateral procurement agreement).⁶⁷

In the long run, a ‘European preference’ can have a positive impact on competition if it (i) is targeted at markets where competition is suboptimal; (ii) there is reason to believe Europe has a potential comparative advantage, so it is not more efficient to allow other parts of the world to introduce new entrants instead; and (iii) it successfully enables non-incumbent European firms to build a reputation, scale and become competitive.⁶⁸ As noted below, the extent to which this happens in practice (as opposed to simply enjoying the ‘quiet life’ of enjoying their access to public contracts) requires further research, since the academic literature on industrial policy shows mixed results. Requiring the public sector to accept (short-term) suboptimal solutions, however, is likely to be far less harmful than requiring the same of the private sector, since the public sector already has much lower productivity and less take-up of digital technologies.

⁶⁴ Jesus Gonzalez et al, ‘Building the Case: Eurostack’, 24 November 2025.

⁶⁵ In a number of contexts, the EU is already pursuing these measures, such as under the Data Act which tries to reduce barriers to users of cloud computing services switching.

⁶⁶ Andre Wolf, ‘The Economics of “Buy-European”: The Pull Effects of EU-Origin Criteria for Net-Zero Technologies’, Centrum für Europäische Politik, 10 March 2026, p 6.

⁶⁷ US Trade Representative, above n 8.

⁶⁸ See Matilde Bombardini, Andres Gonzalez-Lira, Bingjing Li and Chiara Motta, ‘The increasing cost of buying American’, CEPR, 11 December 2024, which illustrates that the US Buy American rules are not targeted at sectors where economies of scale are the strongest, which explains their economic cost.



3.2 Protecting the single market

The EU's primary economic strength is its single market. The EU treaties therefore impose stringent constraints on Member States' subsidy programmes, to avoid 'beggar thy neighbour' subsidy races between Member States.⁶⁹ These rules generally require subsidies to be granted on a non-discriminatory basis (subject to objective and non-discriminatory selection criteria). The European Commission has become ever laxer on national state aid, however: member-state aid has tripled over the past decade: from 0.5% of GDP in 2012 to 1.5% in 2022.⁷⁰

Similarly, public procurement largely remains in the hands of national (and in some cases sub-national) authorities. Proposals to allow more discretion to public authorities in procurement exercises (such as to look at non-price criteria) therefore raise the risk of fragmented decision-making. While laws like the NZIA, CRMA and IAA proposal all try to propose greater uniformity in how public procurement processes incorporate a 'buy European' preference, they inevitably give significant leeway for national law and for public authorities to decide on procurement practices themselves.

These changes therefore significantly raise two risks to the single market. The first is that buy European' mandates are adopted in different forms in different parts of the EU – undermining the single market, by allowing a diversity of different practices. The second is that Member States and public authorities use European preferencing to instead 'buy national' or 'subsidise national' companies.

This is already a cause for concern in public procurement. The European Commission found in 2021, for example, that 40% of suppliers in EU public procurement exercises were within 500km from their public authority purchasers.⁷¹ Furthermore, while the EU's rules on paper show it generally operates open procurement practices, in fact as Chart 1 shows, the non-local percentage of public procurement supplies is very low and on par with the US – which is all the more striking given the EU's much greater openness to imports across the economy generally. **This suggests that – overall – EU procurement tends to suffer from an excessive local bias, rather than an excessive presence of foreign firms.** This is illustrated in recent research, suggesting in areas like cloud computing, large Member States have persisted in promoting their own preferred national ecosystems instead of European ones.⁷² For example, Italy's 'national strategic hub' is provided by a consortium of Italian entities;⁷³ the German public sector procures sovereign cloud services from a tie-up between Google and Deutsche Telekom; and the French government is shifting to videoconferencing solutions hosted on infrastructure of Outscale, a French cloud company. This insistence on domestic solutions seems unlikely to result in genuinely European champions.

⁶⁹ As a starting point, specific subsidies are illegal unless they are authorised or fall under the General Block Exemption Regulation (Regulation 651/2014/EU).

⁷⁰ Andrew Hodge, Roberto Piazza, Fuad Hasanov, Xun Li, Maryam Vaziri, Atticus Weller, and Yu Ching Wong, 'Industrial Policy in Europe: A Single Market Perspective', IMF Working Paper, 13 December 2024.

⁷¹ European Commission, 'Study on the measurement of cross-border penetration in the EU public procurement market', 2021.

⁷² Antonio Calcara, 'European cloud computing policy: failing in Europe to succeed nationally?', West European Politics, vol 49, issue 4, 2026.

⁷³ Tim (45%), Leonardo (25%), Cassa Depositi e Prestiti (20%) and Sogei (10%).



Chart 1.⁷⁴

	Percentage of public procurement imports	Percentage of total GDP comprising imports
EU	4.4	40.0
US	4.4	17.3
China	0.9	24.1

In subsidies, the European Commission has adopted a ‘Competitiveness Coordination Tool’ to coordinate subsidies and mitigate concerns about an intra-EU subsidy race – but this tool remains ill-defined and does not provide any hard limitations to ensure alignment between Member States.

The traditional emphasis on regulating Member States’ subsidies may be giving way to a more European industrial policy, exemplified by the European Commission’s proposal for a €409 billion European Competitiveness Fund. This should, in principle, ensure an active industrial policy which poses less risk of creating an intra-EU subsidy race. However, as controversy over the SAFE defence loan programme illustrates, many EU Member States harbour concerns that even EU-level subsidies may end up benefiting some Member States over others.⁷⁵ EU ‘sovereign cloud’ public procurement, for example, has so far ended up benefiting French firms to a much greater extent than those of other Member States: of the four sovereign cloud contracts awarded by the European Commission in April 2026, three involved a French participant.⁷⁶

This points to a broader question about how the benefits and the costs of European preferencing can be shared among the Member States. Where the objective is to deliver resilience for security reasons, some Member States may have to forego the allure of trying to attract investment to their own countries – but that only highlights the need for interventions to be tightly targeted. When it comes to more growth-oriented interventions, policy makers will have to grapple with how to reconcile the need to support the most promising projects with the desire many Member States will have not to be the losers in that process. A shift away from excellence poses real risks of EU preferencing being costly and unsuccessful.

3.3 Retaliation

The risk of retaliatory measures is another significant reason why many Member States have resisted a European preference. It is by now well documented that the US and China have extensive national preferencing. However, the vast majority of the EU’s trade is with the rest of the world: more than 70% of Europe’s goods and services exports and more than 60% of its goods and services imports are from elsewhere.

The EU’s trade policy agenda has been remarkably successful at expanding market access for European businesses abroad: the EU has 76 preferential trading partners, significantly more than the US (with

⁷⁴ Patrick Messerlin, ‘How Open Are Public Procurement Markets?’, in Aris C Georgopoulos, ‘The Internationalization of Government Procurement Regulation’, 2017, p 548; World Bank World Development Indicators.

⁷⁵ Eliot Wilson, ‘EU defence: Why ‘buy European’ really means ‘buy French’’, CityAM, 21 March 2025.

⁷⁶ The winners were a partnership of Post Telecom, OVHCloud and CleverCloud; Scaleway; and a consortium led involving Proximus, S3NS (a Thales and Google joint venture), Clarence and Mistral. The only winning bid which did not involve a French company was awarded to the German Schwarz Group.



20) and China (with 30). The quality of these agreements is significant too: in the recent EU-Indonesia FTA, Indonesia made its broadest ever market access commitments for services, investment and public procurement. Many commitments in free trade agreements go well beyond the requirements of the WTO GPA. Although data is scarce and often out-of-date, and many countries retain a significant 'home bias', European companies appear to have significant success bidding for public procurement contracts in many countries with whom the EU has a free trade agreement. For example, in 2006-08, European firms accounted for 37% of total value of foreign goods purchased in Japanese public procurement.⁷⁷

A shift away from open markets therefore comes at a potentially significant cost to globally successful European companies, especially if it is perceived to shut out foreign firms. These risks range from WTO disputes and mirror 'buy national' policies, to targeted antidumping or countervailing duties, retaliatory procurement exclusions, and regulatory pressure on European companies abroad. Importantly, many of these retaliatory tactics would target European firms which are already globally successful and contributing to the bloc's competitiveness and its exports. It would be strange to sacrifice Europe's many existing champions⁷⁸ for the uncertain possibility of creating new ones.

This points to the need for any European preference to be tightly defined, and to – where possible given the objective – allow firms from Europe's major and trustworthy trading partners to benefit. A European preference almost inevitably will require active commercial diplomacy so that the EU can explain the purpose of the policy to major trading partners and, where possible, proceed on the basis of reciprocal market access.

3.4 Legal constraints

International law also constrains implementation of a European preference but still leaves significant scope for its application in appropriate circumstances.

In public procurement, the WTO's Agreement on Government Procurement (GPA) came into force in 2014 and has been ratified by the US, each of the EU Member States, and many other countries. Notably, China has not ratified the treaty. The GPA sets certain minimum requirements for public procurement including requirements for transparency and non-discrimination. As noted below, initiatives like the NZIA therefore generally do not discriminate between EU Member States and suppliers from other countries which have ratified the GPA. However, the GPA itself (like WTO law generally) contains various exceptions – for example, it only applies to procurement above certain value thresholds, and it is subject to exemptions, including for energy supply and security-related activities. The GPA, for example, allows authorities to exclude or disadvantage bidders if this is "necessary for the protection of essential security interests" and countries such as the US have interpreted these exceptions very broadly. Consequently, **only a minority of procurement is actually covered by the GPA: for example, in the EU the GPA covers only about 21% of total public procurement by value.**⁷⁹ This leaves ample scope for a European preference in many sectors – particularly in green and digital technologies.

⁷⁷ European Parliament, INTA, 'Openness of public procurement markets in key third countries', 2017, p 10.

⁷⁸ In some cases, this might be necessary, however, where the existing champion seems unlikely to be able to maintain a comparative advantage. This may be the case in sectors where Chinese firms are rapidly encroaching on European suppliers' market share.

⁷⁹ Guillou et al, above n 10, p 19.



The Agreement on Subsidies and Countervailing Measures (SCM Agreement) precludes the use of local content requirements: benefits like subsidies which are contingent on the recipient using domestic over imported goods or inputs.⁸⁰ In practice, the SCM Agreement has provided the EU with a relatively weak ability to retaliate against Chinese exports which are often backed by opaque state support,⁸¹ and illegality did not stop the last US administration introducing its Inflation Reduction Act, with explicit local content requirements. However, it is implausible that EU Member States as a whole would agree to explicitly WTO non-compliant subsidy schemes. Adopting rules which have the indirect effect of benefiting European production (such as by taking into account carbon emissions involved in producing a product) are more likely to be lawful and pose less risk of alienating the EU's trading partners. As explained, in section 4 below, these are also more likely to effectively achieve the EU's policy goals in pursuing EU preferencing.

⁸⁰ These were in any event already prohibited under Article III of the GATT 1947. Other subsidies may be 'actionable' (meaning another country is allowed to challenge or retaliate against the subsidy if it has adverse effects on the other country).

⁸¹ Tordoir et al, above n 3.



4. Design decisions for the green and digital sectors

While the traditional emphasis on a non-discriminatory level playing field remains predominant, this is now qualified by a growing desire to more actively back European industries – and a repertoire of sectoral acts or proposals that give more priority to resilience, sovereignty and using subsidy and procurement as levers to support EU firms' growth or protect sectors, firms and jobs. These developments represent a decision to take a different trade-off between the opportunities and the risks of European preferencing than Europe has done in the past.

The dilemmas involved are particularly acute and complex in the green and digital sectors:

- The **green transition poses a dilemma** because if the EU's goal is to protect the environment, then lowering the EU's carbon emissions and electrifying industry should be achieved as quickly and cheaply as possible using all resources at EU firms' disposal – regardless of where these technologies come from. Delivering the green transition as quickly and efficiently as possible – by moving to renewable energy sources, including where the inputs are subsidised by Chinese taxpayers – will help Europe enjoy greater energy self-reliance and lower and more predictable energy prices sooner.⁸² In turn this may improve the competitiveness of all European industries, particularly energy-intensive ones (if they can survive until this green transition is achieved). However, this implies accepting the potential loss of long-term knowhow in some greentech sectors where the EU had long harboured leadership ambitions. It may be important here to be tactical: while the EU has already lost the market for solar panels, for example, its position in other green technologies remains strong and may still be worth defending.⁸³
- The **digital transition poses a similar dilemma**. The EU's competitiveness problem is essentially the result of Europe's sluggish productivity growth, a problem that can only be solved through greater exploitation of technologies, particularly digital technologies. The public sector suffers this problem to an even greater extent than the private sector, and is renowned for its slow take-up of technologies. Public sector productivity is important to overall economic growth in Europe, since the public sector is a significantly larger proportion of GDP in Europe than the US. Lack of public sector productivity also impacts the private sector – in everything from making compliance procedures and permitting easier and more efficient, to improving infrastructure and services on which the private sector depends and, ultimately, leads to higher taxes to fund services.⁸⁴ Imposition of restrictions on procuring or using the most functional ICT products and services poses risks of slowing down digitisation. At the same time, the long-term risks associated with excessive reliance on one country for many different points in the digital supply chain need to be addressed, which may require an approach that

⁸² While China might hypothetically cease the supply of solar panels, that would not impact the EU's ability to continue to use existing solar panels, which makes it far less of a vulnerability than (say) reliance on Russia or the US for expendable fossil fuels such as oil and gas, where cessation of supply would have immediate consequences.

⁸³ Tordoir et al, above n 3.

⁸⁴ EY, 'Mind the productivity gap: The public sector potential', 2025.



does not focus on (short-term) growth at the expense of all other objectives – after all, greater take-up of foreign services may imply greater customer lock-in.

This illustrates the need for careful design and scoping of European preferences. The various disparate initiatives – and the many different short-term and long-term opportunities and risks – raise the risk that the EU will not take a coherent and strategic approach. A framework is required to think systematically through the various trade-offs.

4.1 What alternative mechanisms exist?

Given the costs and risks of European preferencing, once policy makers have put in place the right enabling framework, identified what they seek to achieve, and the sectors in which they wish to intervene, policy makers should then consider whether lighter-touch and (potentially) less controversial alternatives could help deliver many of the benefits of EU preferencing without the risks and costs.

A starting point is considering whether more **transparency and simplicity** in public procurement and in subsidy schemes would help European firms. Currently, there is significant fragmentation across EU Member States in how procurement and subsidy schemes are published, designed and implemented:

- Many public procurement opportunities are still not published and advertised.⁸⁵
- Subsidy schemes can be very difficult to navigate, making it difficult for smaller non-incumbent firms to identify when opportunities are available. The European Competitiveness Fund is a step towards greater simplicity and transparency. The ECF consolidates 14 different existing programmes such as InvestEU, the Digital Europe Programme, the Connecting Europe Facility, and the European Space Programme (and improves coordination with two larger remaining programmes, Horizon Europe and the Innovation Fund).

In this context, it is worth noting that EU preferences – by introducing additional conditionality in public procurement or subsidies – will inevitably increase complexity. In particular, 'made in Europe' requirements such as those in the Industrial Accelerator Act proposal inevitably involve economic actors having to trace their supply chains and map various activities in the value chain to particular levels of added value (to prove their value chains have enough European content), which is not always a simple task. Furthermore, 'made in Europe' requirements commonly come with exceptions and carve-outs, for example where there is no alternative European supplier available or where choosing the European option would come at disproportionate cost.

It is difficult to know whether lack of transparency and simplicity are advantages or disadvantages for European firms. On the one hand, the largest firms have the most resources to navigate complexity and labyrinthine procurement and subsidy systems – which may give non-EU firms the edge in markets where European players are weak. However, where systems are not transparent, there could also be a greater chance of local players (thanks to physical proximity and personal relationships) having privileged knowledge and access to opportunities – which would explain the aforementioned strong 'local bias' in procurement practices.⁸⁶ **In any event, however, there seems to be little reason not to improve transparency and simplicity in order to boost competition, given this would make public**

⁸⁵ Guillou et al, above n 10, p 34.

⁸⁶ Lucian Cernat, 'The Participation of Foreign Bidders in EU Public Procurement: Too Much or Too Little?', ECIPE, February 2025.



procurement and subsidy far more efficient, while using other tools to address EU preferencing objectives if necessary.

Separately, the public procurement directives encourage the separation of large contracts into different 'lots', as a means to make it easier for SMEs to participate successfully. This may assist new entrants, though there is conflicting evidence on whether dividing up tenders in this way encourages foreign firms (by making it easier for them to participate as non-incumbent challengers) or discourages them (by reducing the value of winning).⁸⁷

In other contexts, such as ensuring EU law is respected, **alternatives could include technical solutions** (such as mandating end-to-end encryption so that European data is not accessible to foreign governments and agencies) or **commercial requirements** (for example to require that cloud services can be handed over immediately to Europeans in the event that the firm was ordered to cease supply). As noted in the conclusion, switching is also a key regulatory intervention which can be essential (though often supplementary) to ensure that customers are not locked in, competition can work effectively, and EU customers can make use of any new alternatives which emerge through European preferencing.

Finally, **tax policy** remains an important lever to promote local innovation and investment. Examples of tax policies include tax credits to support research and development activities, the provision of 'patent boxes' (which allow for lower tax rates on income derived from intellectual property), and accelerated depreciation of assets to promote business investment. These policies have a sound economic basis – since it is well understood that innovation can be undersupplied in a free market, in part because the benefits of innovation can rarely be fully internalised to the firm which created the innovation.⁸⁸ There is, however, wide variation in the use of tax policy to support innovation in the EU: while for France tax incentives are more than half of total government funds for business R&D, Germany and Finland have no major tax breaks.⁸⁹ In particular, these tools can be well targeted to one of the key problems holding back European innovation: the relatively low rates of private sector R&D spending compared to the US.⁹⁰ They also tend to be more horizontal, avoiding the need to 'pick winners'⁹¹ and instead helping the market see capital move towards areas of comparative advantage.

4.2 Are enabling conditions in place?

While the academic literature has conflicting views about the success of active industrial policies, particularly those that rely on 'buy local' provisions, there is general acceptance they rely heavily on a country also having an innovation-friendly, stable and growth-supporting enabling environment.

For Europe, this means developing a genuinely integrated single market (so that successful firms can grow across Europe), effective competition policy (so firms which benefit from public support are not inoculated from competitive pressure and need to continue to innovate and improve) and predictable regulation (to promote long-term investment). All this will help firms benefiting from public funding or purchases to translate their advantages into genuine innovation and productivity gains.

⁸⁷ Ibid, p 5.

⁸⁸ Bronwyn H Hall, 'Tax policy for innovation', NBER Working Paper, April 2019.

⁸⁹ Irem Güçeri, 'Does the tax system offer an effective tool to support innovation and R&D?', University of Oxford blog, 31 October 2019.

⁹⁰ This issue was explored extensively in Mario Draghi, 'The future of European competitiveness', September 2024.

⁹¹ Güçeri, above n 89.



Particular attention is needed on the need for deep capital markets for venture and growth finance. In the EU context, many EU subsidy programmes have tended to assume heroic levels of matching funds from the private sector.⁹² In principle, leveraging public funds to unlock private investment is a sound way to maximise value for money for European taxpayers. However, as Mario Draghi explained in his seminal report on competitiveness, EU capital markets do not all work well today – making private funding for innovative ideas very difficult for European firms to access without turning to the US. Large amounts of European savings remain locked up in bank savings accounts or in pension funds that are subject to EU rules which severely limit how much they can invest in higher-risk investments. Addressing these problems will be important to both reduce the need for public subsidies in the first place, and to ensure that those which are deployed can more easily unlock more private investment. Measures to address this would include improving financial literacy to encourage households, creating a standardised EU-wide savings product which could benefit from tax incentives,⁹³ and amending EU pensions laws to allow a more balanced and long-term approach to risk management.

4.3 Which activities should each initiative target?

With the right enabling conditions in place, the next question is which economic activities any European preference should be targeted at supporting. This, in turn, poses the question of which **specific objectives the EU wants to prioritise in relation to each economic activity**.

Resilience and security

Take first the objective of improving economic resilience and security. This is clearly legitimate – the EU must be able to withstand supply chain shocks or weaponisation of a dependency. Targeted subsidies and procurement practices can in theory address these problems by enabling a greater diversity of suppliers. However, in a globalised world where countries have specialised based on their comparative advantages, dependencies are everywhere. Further, as noted in section 0 above, there can be a tension between promoting security and growth. **The key is therefore to focus interventions on the most harmful dependencies: those that are unilateral; where the supplier has both the incentive and the ability to weaponise the dependency; and where Europe could not adapt.** As I have argued elsewhere,⁹⁴ the right approach might be to:

- First, **identify Europe's suppliers**. If Europe has a diverse set of actual or possible suppliers of a good or service, there is no dependency.
- Second, **distinguish between mutual and unilateral interdependencies**. Globalisation leads to complex value chains which span many countries and parts of the world, particularly for high-tech products like semiconductors. Complexity can make it very difficult to understand the scope of vulnerabilities. In 2023, for example, the European Commission said it would carry out risk assessments in four sectors but it is unclear if these were ever completed.⁹⁵ ASML has over 5,000 individual suppliers, and only about half are in the EU. Prioritisation is

⁹² A key example was the EU Chips Act, where the majority of headline funds were assumed to be provided by the private sector.

⁹³ Elena Banu, Johanne Evrard, Daniel Jonas Schmidt and Michael Wedow, 'Crossing two hurdles in one leap: how an EU savings product could boost returns and capital markets', ECB Blog, 27 June 2025.

⁹⁴ Aslak Berg and Zach Meyers, above n 23.

⁹⁵ European Commission, 'Commission recommends carrying out risk assessments on four critical technology areas: Advanced semiconductors, artificial intelligence, quantum, biotechnologies', October 2023.



essential – both to ensure that measures to protect economic security are actually effective and to avoid falling into widespread protectionism.

- Third, **identify the likelihood that any unilateral dependency would be weaponised.** Weaponisation usually imposes costs on both the 'target' and the 'attacker'. China, for example, has a demonstrated willingness to suffer loss (or impose it on Chinese companies and their stakeholders) in order to cause economic damage, as shown by its control over rare earth exports.⁹⁶ While the EU cannot ignore the growing threats from the current US administration, it is less clear that the US would be willing and able to tolerate both the costs to US companies of obliterating other countries' trust (the EU is, for many large US tech firms, their largest foreign market). This suggests that de-risking from China ought to be the higher priority, even if EU dependencies on the US also demand attention.
- Fourth, **consider the options EU customers would have if the dependency was weaponised,** including how quickly and easily a customer could switch to another supplier and the consequences (for example, whether this would only imply higher cost, or whether there would be technical or other constraints on switching). EU policy makers can then make an evidence-based assessment of whether the costs of pre-emptive action would be worthwhile. This assessment should be dynamic and consider how quickly other suppliers might enter the market and how any barriers to them doing so could be addressed.

The IAA does not do this well because of its lack of specificity: it does not target specific bottlenecks (such as the production of certain inputs) but instead its rules apply to categories of business activities such as chemical production, without reference to the strategic importance or the degree to which Europe is dependent on others for that input.

Policy makers need to approach this exercise with modesty. On the one hand, although policy makers have fixated on recent short-term disruptions, in fact Europe's economy has shown incredible resilience – even from sudden and severe shocks, from Covid to the sudden cut-off of Russian gas.⁹⁷ Of the 50 'critical dependencies' on Russia, for example, the EU managed without any of them and only gas proved to have a significant economic impact. Firms proved to be far more innovative and adaptive than expected: if Europe had spent huge amounts of money 'de-risking' from Russia pre-emptively, much of that might have been spent inefficiently. In relation to gas, the one big vulnerability, prior to Russia's full-scale invasion of Ukraine, policy makers in some EU Member States made decisions that increased Europe's exposure to that vulnerability, which could have been avoided (both in supporting the construction of pipeline infrastructure to Russia and in shutting down alternative sources of energy).

On the other hand, **supply chains are incredibly complex and so dependencies can be extremely difficult to identify** – so an 'audit' exercise like the one identified above is unlikely to be exhaustive. An apparently wide set of suppliers may not be so resilient if they all rely on a single input supplier: but the EU cannot easily track foreign supply chains to identify where these single points of failure exist. Supply chain problems can come from many sources. EU car production virtually stalled at certain points in recent years with completely different underlying causes – first during Covid (largely

⁹⁶ 'EU urges G7 response to China's rare-earth export curbs', Politico, October 2025.

⁹⁷ David Henig and Anna Guildea, 'Prosperity and Resilience: Diverse Production and Comparative Advantage in Modern Economies', ECIPE, February 2022.



as a result of car manufacturers' own decisions to cancel their semiconductor orders⁹⁸), then due to recent critical raw material restrictions (imposed by China), and then as a result of the dispute over Nexperia (which was, at least in part, precipitated by US pressure on Europe to intervene in the company's operations because of its ownership by a Chinese firm).

The 'least regret' moves would be to:

- focus on risk management practices which do not require uprooting existing supply chains. These could include the practices required by the EU's cybersecurity laws, which require assessments of a supplier's security and for customers to audit their suppliers' practices; and
- target more hard-edged interventions at the most fundamental parts of the supply chain, such as processed raw materials, where Europe is most dependent on one country, that country is prepared to weaponise the dependency, and where loss of supply can cause damage across many different downstream activities.

Enforcement of EU laws, values and data protection

Where the goal is to **protect Europe's regulatory standards**, markets should be targeted only on the basis that Europe's ability to set standards for its own market is under genuine threat. This might be because there are foreign laws which directly conflict with EU law or in sectors where overseas operators may not respect EU law or are feared to act in ways inconsistent with European interests.

In the former case, the concern is likely to ensure 'foreign law immunity'. However, as explained above, given many countries (including many EU ones) have extra-territorial laws in areas like access to data, this is not a realistic goal for many European companies – certainly not if they wish to be successful in sectors where there are economies of scale, which will likely require them to offer services outside the EU. Moreover, such a goal may conflict with the reality of globally integrated technology supply chains and international service provision. The areas where 'foreign law immunity' are pursued should therefore be exceptionally narrow, for example protection of certain datasets critical for national security,⁹⁹ and the focus given instead to technical safeguards such as encryption to protect European data.

There are several alternative policy approaches to effectively protect European interests. These include regulations to require local investment and physical presence so that the EU can seize assets if needed to give EU laws genuine teeth, and rules to ensure seamless handover to a local European service or to self-supply in the event that the company was required to cease service. The particular rules will need to be context-specific, but they should not necessarily require firms to be European-owned.

Competitiveness and growth

In some cases, the goal of a European preference will primarily be to nurture innovation and growth. In these cases, the goal will explicitly be to "pick winners". It is key, in this case, that "lead markets" are supported only in cases where the European sector has a chance at not only surviving but thriving

⁹⁸ Karen Dynan and David Wilcox, 'The Worst Inflation Outbreak in 40 Years: Distilling Lessons from the COVID Era', PIIE, Briefing 26-1, February 2026.

⁹⁹ Italy's GovCloud is a good example of how critical data can be narrowly classified: see <https://www.acn.gov.it/portale/en/strategia-cloud-italia>.



and contributing to European productivity growth – so that subsidies are not required forever. Poorly designed preferences risk becoming a sinkhole for public funds, while entrenching incumbents and delivering little.

Identifying these promising sectors is far from straightforward. While the EU leads in various green technologies, some of these innovative sectors are under threat. It is widely accepted that Europe has lost the market for solar panels to China, for example.¹⁰⁰ But in other cases, it can be difficult to distinguish between greentech sectors that are incumbent (and where support would be spent trying to defend against Chinese subsidised competition, which could well be a losing battle) and those where Europe has genuine opportunity to out-innovate China and therefore stay ahead (even despite China's willingness to continuously subsidise strategic sectors). The IAA proposal does not do a good job of distinguishing between those sectors in which Europe could succeed and those where it could not: it applies the same rules to broad categories like 'basic chemicals' which in fact comprise many different types of chemical processes, which each have very different degrees of complexity, competitive challenges, and strategic importance.¹⁰¹

This distinction is even more murky because a body of research argues that some incumbent industrial sectors may be essential for 'learning effects': in other words, having a position in one part of the value chain may be necessary to maintain 'knowhow' and develop innovations in related parts of the value chain.¹⁰² Similarly, there are significant 'knowledge spillovers' between firms in clusters, particularly between very large firms and smaller ones in geographic areas.¹⁰³ This suggests there could be value in Europe maintaining a presence in certain economic activities even if they are not viable on their own, so that it can be in a position to build or maintain an innovation lead in related activities. However, given this could significantly increase the scope of activities deemed worthy of EU preferencing, claims by industry of needing protection on this basis must be treated with care.

This illustrates that a growth-led industrial policy may be responsive to what is happening elsewhere in the world when deciding which sectors to back. The US and China have a willingness in some sectors to do 'whatever it takes' to secure a technological lead and dominate certain markets. The EU does not have (and in some cases should not emulate) this determination. An approach focused on 'keeping up' with the US and China in every area is therefore doomed to fail: even if it was economically viable, it is politically implausible that the EU could subsidise or protect all strategic sectors to the extent of its geopolitical rivals. Take semiconductors, for example: in 2013, the EU committed €10 billion in public funding to increase the EU's global market share to 20 per cent by 2020. That failed – Europe's share of the global market remained roughly the same – and in 2020 the EU passed a Chips Act with exactly the same ambition, hoping to mobilise €43 billion in public and private funds. That has again proven insufficient, leading to calls now for a Chips Act 2.0. This was predictable because the amount of public funding is grossly insufficient: even after the first Chips Act funding injections, projected European investment in chip manufacturing from 2023-25 was €100 billion. In comparison, the much larger US subsidies resulted in \$640 billion in private investment over 2020-2026, and even that was insufficient to onshore manufacturing of cutting-edge chips.¹⁰⁴ European chip-making equipment

¹⁰⁰ See Draghi, above n 17.

¹⁰¹ Johannes Binder, Dirk Dohse, Holger Görg, Wan-Hsin Liu, Benno Schoel and Finn Ole Semrau, 'Ambition Without Precision: Why the Industrial Accelerator Act Falls Short', KIEL Institute, Policy Brief, March 2026.

¹⁰² Gary P. Pisano and Willy C. Shih, 'Restoring American Competitiveness', Harvard Business Review, July – August 2009.

¹⁰³ Adrien Matray, 'The local innovation spillovers of listed firms', *Journal of Financial Economics*, vol 141, 2021.

¹⁰⁴ SIA, 'America's Chip Resurgence: Over \$640 Billion in Semiconductor Supply Chain Investments', 30 January 2026.



producer ASML estimates that, to achieve the 20% goal, the EU would have to unlock 2-3 times more funding than the Chips Act envisages.¹⁰⁵

While the EU can keep up with other parts of the world in some economic activities, it cannot afford to compete with every other major power at everything all at once. This means the EU must leverage as far as possible its comparative advantages and tools like trade policy and a positive enabling environment to boost security – keeping subsidy only to where it is essential.

4.4 Who counts as 'European'?

The discussion of what 'European' means must be context-specific, reflecting the objectives policy makers want to achieve and market realities. In general, stricter criteria for being 'European' mean fewer companies may qualify for preferential treatment. That increases the risks of retaliation, of inefficient outcomes, and of making supply chains less diverse and resilient inadvertently.

In narrow and security-sensitive sectors of the economy, there may be good reason to insist on domestic supply and innovation, because there is no other way to ensure a sufficient level of close government supervision (and potential control). European defence initiatives have commonly only been open to producers in the EU or certain partners. For example, in the EU's proposed €90 billion loan to Ukraine, €60 billion would be available for defence procurement. According to the Member States' consensus, products "should in principle only be procured from companies in the EU, Ukraine, or EEA-EFTA countries" except in cases where Ukraine urgently needs a product which cannot be supplied from those countries.¹⁰⁶ Similarly, the EU's Security Action for Europe (SAFE) programme, a €150 billion loan facility for defence investments is open to producers from the EU and countries like Canada that have a Security and Defence Partnership (SDP) with the EU.¹⁰⁷

Where the objective is to improve supply chain resilience or protect security more generally, however, then this will rarely require Europe to build its own capabilities. On the contrary, risks can be more effectively mitigated through measures that:

- maximise diversity and redundancy;
- increase customers' choices; and
- ensure customers can easily switch suppliers.

In markets where firms enjoy economies of scale, network effects or first-mover advantages (which include many digital markets), for each country or region to pursue their own solutions would create significant inefficiencies. Better would be to encourage alternative supplies to develop wherever they can be most efficiently produced.

In cases where the objective is to address a very specific supply chain risk, **the simplest and clearest option is to simply exclude suppliers (or suppliers from a particular country) from the relevant activity.** The Industrial Accelerator Act proposal does this by precluding "high-risk suppliers" from providing certain security-sensitive parts to bidders in auctions for renewable energy, public

¹⁰⁵ ASML estimate, 2022.

¹⁰⁶ European Council, 'Council agrees position on legal framework to provide €90 billion in financial support to Ukraine', 4 February 2026.

¹⁰⁷ Though no more than 35% of components (by cost) acquired through public procurement contracts can originate from outside the EU, EFTA or Ukraine.



procurements and in products benefiting from public subsidies. A similar approach is proposed in the Digital Networks Act and Cybersecurity Act proposals. In both cases the provisions are intended to exclude Chinese suppliers. This option clearly needs to be evidence-based, but it otherwise has the benefit of leaving the market as open as possible to maximise competition. The US has already restricted Chinese electric vehicles on the basis of cybersecurity laws.

In cases where the concern is concentration rather than a specific supply chain risk, the better option is **the use of 'resilience criteria' which limit the maximum amount of Europe's supplies for a certain good or service which come from a single third country**, rather than to privilege European firms specifically, or firms from any particular third country or countries. For example, public buyers could be required to diversify supply sources when the EU is dependent on a single supplier or suppliers from a single country for a certain level of its imports.

In some cases, a generalised 'diversity' criteria may be insufficient – for example where reducing purchases from existing problematic countries would likely simply lead to supplies being procured from other countries that are geopolitically risky. In these cases, rather than focus solely on diversity, **a 'qualifying club' of countries which are trustworthy and like-minded and/or treat the EU in the same way could be considered**. This could enable **significant international coordination** to avoid wasted duplicative efforts and ensure their different industrial policies are complementary. Israel has cutting-edge cybersecurity tools, for example, and is also shifting away from tech dependence on the US. Ukraine has produced significant military innovations to help survive its invasion by Russia, providing a natural foundation for better EU-Ukraine defence co-operation. India has been successful in developing its own tech stack in areas like payments. An approach that allows the EU to learn from, piggy-back off the investments of, and avoid competing with, each of these countries would be sensible.

While the Industrial Accelerator Act proposal is commonly described as having "buy European" requirements, in fact under the proposal content is also deemed to be of EU origin if it originates from a country with whom the EU has a free trade agreement or customs union or is a party to the WTO Agreement on Government Procurement (**GPA**). The European Commission may exclude a certain country which would otherwise qualify in certain circumstances, such as to avoid threats to EU security of supply or if the country discriminates against the EU (i.e. to ensure reciprocity). This approach risks creating a degree of uncertainty for EU partners, which might make such a 'club' harder to achieve.

Options which are perceived to be designed specifically to exclude one (or a small group) of countries are, however, more likely to provoke retaliation. Another option is to include **criteria that are not related specifically to country of origin/ownership**. This could include, for example:

- Maintaining a focus on price criteria, but requiring public authorities to better take into account lock-in risks, exit options and outward migration costs. This may be relevant in procurement markets where lock-in is a concern, such as cloud computing.
- Taking into account environmental costs or other factors that reflect European values and strengths (the approach adopted in the NZIA). France's electric vehicle subsidy scheme, for example, requires the carbon cost of manufacturing the vehicle and transporting it to France to be considered as part of whether the EV qualifies as low-carbon. This has the practical effect



of excluding Chinese EVs, which are often made with fossil fuel energy, while fully complying with WTO law.¹⁰⁸

- Including specific criteria relating to data protection, interoperability, conformity to global technical standards and ability to switch. In contexts such as cloud computing, for example, sovereignty could be assessed based on demonstrable technical, operational, and legal safeguards - rather than primarily on provider nationality or the location of infrastructure. One option would be to privilege open-source solutions, though from an industrial policy perspective insisting on maximal openness may also constrain European firms' ability to develop a commercialisable and scalable business model.

Where the objective is to ensure Europe can insist on its own values and regulate its own market, policy makers could demand a certain type of 'connection' to Europe – to help ensure that the firm's investments benefit Europe, that the firm has a genuine stake in Europe, and that there are assets in Europe which could be used as security to help persuade the firm to respect European law if necessary. However, the type of connection required could vary based on the context. This might mean factors such as ensuring that data is stored in the bloc or a certain amount of physical investment takes place on the continent are relevant. The precise definition of 'European' should be dependent on the context and on what is needed to ensure Europe's regulatory credibility and that Europeans are credibly covered by the protections offered by European law. This does not, for example, mean that only European-owned investments should qualify as 'European'.

Where the goal is to promote innovation and growth, while in some cases it may be helpful to only support European-owned companies, in most cases it will be more important to support local investment from anyone and instead drive the take-up of technologies. The focus should be on delivering value for Europe. This is because the value of most technologies – particularly when markets are working well – are enjoyed by those that use them rather than those that 'own' them.¹⁰⁹ An exception is where innovative ideas are likely to require economies of scale and 'winner take all' dynamics, strong lock-in effects, in which case more the value captured can be expected to go to the innovator for longer. Similarly, where there is a likelihood that Europe can closely hold and maintain a technological edge and serve as a "bottleneck" in global value chains, there may also be more benefit in being more protective of a European innovation.

4.5 Which tools for the job?

Having identified which activity to target and who should count as 'European' in that activity, the next question is which type of instrument would be the most suitable – subsidy or public procurement? And if subsidy is the preferred instrument, should it promote demand or supply?

In Europe, public procurement accounts for 14% of GDP, or €1,800 billion annually. Superficially, this might indicate that it is a powerful level to stoke European demand. In practice, however, there are several caveats to consider.

¹⁰⁸ See Tordoir et al, above n 3.

¹⁰⁹ Jeffrey Ding, 'Technology and the Rise of Great Powers: How Diffusion Shapes Economic Competition', Princeton, 2024.



- First, the vast majority of public procurement awards already go to European firms. Best estimates are that only about 5% of contracts are granted to firms not registered in the country running the procurement process.¹¹⁰ This figure is even lower in some of the largest EU countries, such as France and Germany, which are likely to run the largest tenders (by value). The available data does not distinguish between local firms which are subsidiaries of foreign-owned companies and those which are EU-owned. However, a 2021 study indicated that these types of indirect cross-border awards could comprise about 20% of tenders below €200m and 28% of contracts above €200m.¹¹¹ This suggests that procurement reform might be unlikely to shift significant new demand to Europe, except in a few sectors: indeed, as noted in section 3 above, it could even further fragment the single market by exacerbating existing local bias. A targeted approach – perhaps focused on adjusting procurement in the sectors where major contracts tend to be awarded to non-EU bidders – would be more proportionate.
- Second, and relatedly, the importance of public procurement to particular sectors varies greatly. For example, public authorities are only directly responsible for about 1% of global demand for semiconductors,¹¹² and 1-2% of European demand for passenger vehicles.¹¹³ This means public procurement alone is unlikely to be enough to create sufficient demand for European success (or even, in some cases, a minimum viable product) much less create products which the private sector could find attractive. In other markets (for example, procurement for commercial vehicles, as opposed to passenger vehicles) European public authorities remain important purchasers, and so imposing local content requirements could encourage European suppliers to increase the amount of European content in their supply chains. Public authorities can also be large purchasers of IT services, with EU governments spending EUR 100bn on these services annually,¹¹⁴ which suggests there is some potential to use public procurement to support European cloud computing services.
- Finally, the foreign countries which are most successful in that sector need to be considered too. Overall, the UK and Switzerland – two countries that do not pose significant geopolitical risks – won over 50% of EU public procurement contracts which went to foreign bidders in 2023. These are not countries where the EU has concerns about supply chain weaponisation, and there are close cultural, economic and knowledge-sharing links between the EU and those countries. That suggests widespread intervention in public procurement markets would be unjustified.

The level of product development also matters. Basic R&D is generally highly experimental, risky and may take many years to turn into a workable product. This matches poorly with the more immediate timeframes of public procurement – and the European public sector has historically been a laggard in technology adoption. Furthermore, public authorities tend to be risk-averse (thanks to their political accountability) which means they can find it difficult to tolerate 'big bets', which are often necessary to build world-class firms in the tech sector. There are, however, important exceptions such as complex defence projects where contracts span many years before delivery is required. The EU's

¹¹⁰ World Bank, 'European Union: Competition in Public Procurement', 2025, p 23.

¹¹¹ European Commission, 'Study on the measurement of cross-border penetration in the EU public procurement market – Final report', 2021.

¹¹² European Commission, 'Chips Act – Commission Staff Working Document', 2022.

¹¹³ Gregor Williams and Agatha Kratz, above n 16.

¹¹⁴ Matthias Bauer et. al., 'Boosting Efficiency and Quality in EU Public Services: The Need for a European Multi-Cloud-First Strategy', ECIPE, Occasional Paper 04/2025, p 8.



public procurement directives do provide scope for “innovative partnerships” but this tool has been chronically underused.

This suggests public procurement support might (generally) be better tailored to support the ‘economic security’ objective – carving out more resilience in existing markets, particularly those where the public sector is a large customer – rather than to promote European innovation and economic growth in the short term.¹¹⁵ This also suggests that public procurement should be targeted at acting as an ‘anchor tenant’ for a minimum viable product to help ‘inoculate’ Europe against supply chain risks – rather than a full-scale attempt to create a firm at the technological cutting edge or with global scale. (Of course, such a successful firm may emerge over time, however, if a European firm has a secure customer base, but it should not necessarily be the primary objective of a ‘buy European’ policy in public procurement.)

Local content requirements in subsidies may be more helpful as a means to stimulate innovation. These can be targeted either at supply (such as through production subsidies, as with Korea’s support for heavy industry in the 1970s, which unlocked ‘learning-by-doing’ and created a substantial uplift in GDP) or to stimulate demand (for example, by subsidising consumer purchases as several European countries have done with EVs).¹¹⁶ Economic literature illustrates that subsidies need to focus on the real bottleneck, but the design of demand-based subsidies needs particular care to avoid supporting purchases that would have bought the product anyway. Good industrial policy schemes also involve a ‘long-term portfolio approach’ with funding provided to many ‘big bets’ with the expectation that many of them will not pay off – but the benefits of the few successes will outweigh the costs of the failures.¹¹⁷ Production subsidies should also aim to preserve (or even enhance) competition.¹¹⁸

Furthermore, even here the scale of subsidy needs to be sufficient. Take solar panels, for example: Europe’s cost disadvantage is at least 35%, and even countries like India and the US are substantially more competitive than Europe.¹¹⁹ It is not clear that even very significant subsidies could therefore be enough to attract local investment in Europe. As noted above, Europe needs not only to provide sufficient subsidy to ensure that subsidised sectors would be globally competitive if there was a level playing field – it needs to engage with the reality that many strategic sectors will remain subsidised by some other countries indefinitely.

4.6 How stringent should a European preference be?

Excluding foreign bidders from public procurement, or foreign firms from subsidy programmes, is only the most extreme option. Alternatives that may sometimes achieve a better balance between public policy objectives (including promoting competition and innovation) include having a ‘European preference’ as:

¹¹⁵ Manuel Kilian, ‘Better Stack (Part 2): Why Technological Sovereignty Needs a Venture State’, 2026.

¹¹⁶ Ana Margarida Fernandes and Tristan Reed, ‘Industrial Policy for Development: Approaches in the 21st Century’, World Bank Group, 2026 pp 62-63.

¹¹⁷ Reka Juhasz and Nathan Lane, ‘A New Economics of Industrial Policy’, IMF, June 2024.

¹¹⁸ Fernandes and Reed, above n 116, p 65.

¹¹⁹ IEA, ‘Special Report on Solar PV Global Supply Chains’, 2022, p 10.



The role of 'European preference' in Europe's economic strategy

- A factor to be taken into account by grant-givers or public authorities in an unquantified manner;
- Granting a specific price or performance 'bonus' or 'premium' to firms which qualify; or
- A factor which, if met, allows a firm not to meet other qualification or performance requirements (or makes those requirements less onerous).

The criteria may also apply only to some, rather than all, of the procuring entity's or the subsidy-needs. They can also apply to only some of the tenderer's content (for example, requiring a certain proportion of local content) or apply to only certain types of components or inputs.

Distortions of competition are reduced the smaller and less hard-edged the application of the criteria – and more specific criteria can be targeted at the areas where they can make a real difference to a sector rather than just imposing a deadweight loss. This offers a further opportunity to tailor the trade-off between the benefits and costs of a European preference.

For example, hard-edged exclusions of non-European firms may lead to substantially less competition – meaning that certain firms would have no incentive to reduce their prices or increase their quality. In other cases, harder-edged exclusions may be the only way to introduce competition: it may mean accepting a firm which is not yet efficient in order to allow it to grow and become genuinely competitive in the future. However, excessively stringent criteria which are not actually achievable by European companies can be counterproductive – particularly when it comes to local content requirements. As an example, 'Buy Canadian' requirements have had the unintended consequence of excluding some promising domestic firms from public contracts because they had already built their solutions on US cloud infrastructure.

4.7 Governance mechanisms

As noted in various places above, EU preferencing requires tough and often politically unpopular decisions to be made – over the economic activities to intervene in and the means of that intervention. These decisions require deep technical and commercial expertise. The timeframes for delivering outcomes are often significantly longer than the political cycle. This means EU preferencing is particularly likely to fail where – instead of being led by experts taking a long-term view – it is subject to lobbying and overly politicised.¹²⁰

This highlights the need for carefully designed governance mechanisms, which can deliver long-term policy certainty. Since many significant investments require large amounts of capital and time to achieve results, finance for those investments will often require a reasonable level of long-term certainty about the broader political and regulatory landscape. The European Competitiveness Fund proposal may offer a way to deliver such an approach. However, the proposal currently minimises the role of independent technical experts, who would be key in helping to identify projects based on their quality and potential rather than political factors. Furthermore, the potential alignment of the Fund implementation process with the EU budgetary cycle suggests that there are significant possibilities

¹²⁰ Fernandes and Reed, above n 116, p 153.



for changes in policy direction in line with political priorities.¹²¹ This is unfortunate since firms benefit from having a stable and long-term view of innovation priorities.¹²²

A prominent example of good governance is the Defense Advanced Research Projects Agency (DARPA), an independent agency within the US Department of Defense (DoD) responsible for high-risk, high-reward research. DARPA is primarily a funding body, but one which focuses on developing proof of concept. Given its remarkable successes – which have led to both defence technologies but also many inventions with civilian uses, such as GPS – there has been significant academic research examining how its flat structure, the reliance on a relatively small number of expert decision-makers, and the ability to change milestones and pick and terminate partners quickly have allowed the body to avoid many of the traditional dangers of industrial policy.¹²³ German's Federal Agency for Disruptive Innovation (SPRIND), its equivalent of DARPA, was established in 2019. Reforms in 2023 allow SPRIND to act even more like DARPA: with program decisions are driven by domain experts, without needing approvals from elsewhere in government, and the ability to manage its programs with more flexibility. Models like SPRIND and DARPA should be an important inspiration if initiatives like the European Competitiveness Fund are to be governed in a way which unleashes innovation rather than protecting incumbency.

¹²¹ Aslak Berg and Zach Meyers, above n 23.

¹²² Zach Meyers and John Springford, 'UK science and technology after Brexit: How to fix it', Centre for European Reform, Policy Brief, 28 November 2022.

¹²³ Juhasz and Lane, above n 117, p 32.



5. Conclusion and recommendations

The European Commission is progressing EU preferences through a variety of initiatives, and with a variety of stated objectives. Some of these objectives can be in tension. This requires a thoughtful exploration of how complementary different objectives are and a reflection on what is realistic to achieve, and at what cost. This will need to be assessed for each economic activity individually, considering which policy tools to use. The relationship between the EU's industrial ambitions and the need to deliver the green and digital transitions, in particular, requires careful thought – as in some cases the EU may be better off relying on the most globally competitive solutions, while in other cases security, regulation, or economic factors may militate towards market intervention.

A European preference also involves a trade-off between:

- The costs of accepting higher prices and/or lower quality and devoting public resources, along with risks of retaliation, all of which will vary based on the sector, activity and type of support.
- Potential long-term benefits in terms of diversity of supply (which itself might avoid higher prices or reductions in service in future), economic resilience, greater European technological leadership and international leverage.

Long-term benefits may prevail in some cases – such as where temporary EU support creates firms which are capable of competing internationally on their own merits. But long-term costs may be permanent – for example, where EU preferencing is used as an 'insurance policy' to protect supply chain diversity.

In summary some suggested ways to consider two of the most significant objectives of an EU preference are as follows:

Objective	Growth	Resilience
Economic sectors to target	<p>Activity with high innovative potential</p> <p>Europe can plausibly develop a comparative advantage, which temporary support could unlock</p> <p>Does not involve subsidy race with US or China (unless EU prepared to win)</p> <p>Examples: Quantum, industrial AI</p>	<p>Dependency on small number of less trustworthy suppliers</p> <p>Dependency is unilateral and real risk it would be weaponised</p> <p>Damage from weaponisation would be significant</p> <p>Examples: Critical raw materials</p>
Alternative or supplementary measures	<p>Enabling environment: capital markets, infrastructure, skills, innovation-friendly and growth-supporting regulation</p> <p>Tax policies to support R&D investment</p> <p>Competition-enhancing regulation to remove bottlenecks to innovation</p>	<p>Improved education of risks</p> <p>Transparency in support schemes and procurement</p> <p>Competition-enhancing regulation to improve switching</p> <p>Exploration of whether trade policy can deliver results</p> <p>Consider role of European regulations in preventing new market entry</p>



Definition of European	Should generally be focused on delivering value-add for Europe rather than focussing narrowly on ownership	Should be broad to balance supply chain diversity and efficiency
Which tools?	Subsidy likely to be most suitable, or public procurement where timeframes are long enough to support radical innovation Support should only be temporary	Public procurement may be suitable in cases where it comprises a significant proportion of total demand Support may need to be permanent
How stringent?	Should be less stringent in order to avoid unnecessary distortions to competition	As loose as possible while still achieving the objective of achieving resilience

This illustrates the need for Europe to be smart: prioritising its interventions, being clear about its strategy, and relying to the greatest extent possible on its ‘endowed’ comparative advantages rather than its ability to leverage vast amounts of cash in the form of subsidies or requiring public authorities to buy options which are not the best value for money. Spreading resources too thinly is bound to fail – and the EU has far less willingness to spend than the US and China.¹²⁴ This militates towards a targeted, strategic and well-designed process – rather than blanket ambitions, such as the Industrial Accelerator Act ambition of increasing manufacturing from 14.3% to 20% of EU GDP by 2035.¹²⁵ It will also require close international coordination in the areas where the EU itself is not likely to become a leader or where resilience is more important than EU leadership.

These reflections lead to a number of recommendations.

The EU needs a coherent economic strategy and set of instruments – which is clear not just about which sectors should be supported, but also those which will not be supported, and about which objectives and which tools will be used for support in each sector. Regulatory complexity is already a drain on European competitiveness and there is a risk that European preferencing adds to this complexity. Different European preferencing requirements are being pursued in different instruments, including CADA, the Industrial Accelerator Act, the public sector Cloud Procurement Policy, the Cloud sovereignty framework for EU institutions, and the upcoming review of the public procurement directives. The last-minute exclusion of digital services from the Industrial Accelerator Act, for example, illustrates the tendency of the EU institutions to take a siloed approach. At the same time, such a strategy needs to provide long-term stability. In industries like semiconductors, investments in Europe and in places like Taiwan, Japan and South Korea which have provided the most enduring benefits are those which have been backed by long-term government support often over decades. The goal should be to add transparency and decide on activities which will be supported (either for security or for growth) in an evidence-led manner. Trade has supported Europe’s growth, and growing domestic consumption is unlikely by itself to support a higher growth trajectory, so Europe must predominantly aim to maximise its global opportunities, rather than merely mitigating risk – by helping European firms identify and grow in areas of specialisation where the bloc has a sustainable comparative advantage. What Europe should avoid is a policy which primarily benefits

¹²⁴ <https://www.bruegel.org/first-glance/made-europe-not-made-europe-should-guide-eu-industrial-policy>.

¹²⁵ https://single-market-economy.ec.europa.eu/document/download/9c7fa301-c4cf-4600-8c00-34243ee26e45_en?filename=The%20Industrial%E2%80%AFAccelerator%E2%80%AFAct%E2%80%AF%20-%20factsheet.pdf.



incumbents (jobs, firms or sectors) to permanently insulate them from economic realities, or which tries to deliver a full 'decoupling' from any third country. That would be economically infeasible and represents only the most extreme version of a European preference.¹²⁶

Target markets need to be carefully selected. The way to reconcile growth, security and sovereignty is to identify – and target most support at supporting – the business models where temporary state support (whether through subsidy or public procurement) can lead to long-term success. This could be, for example, because temporary support will help create economies of scale. Given Europe's high production costs, it is more likely that long-term success will occur only where Europe can maintain a technological lead – rather than just a cost-based one – and the necessary technology or know-how can be contained within Europe rather than leaking to competitors.¹²⁷

Here, it appears that while significant attention has focused on providing support for European production, **too little attention has focused on addressing Member States' fragmented approach to export controls and FDI screening: an issue which contributes greatly to technology leakage.** Without addressing this problem, Europe will continue to struggle to maintain its existing and any future technological leads.

Where public support is beneficial, it will likely require a stronger focus in early-stage technologies rather than more mature ones: aiming to catch the next wave rather than playing 'catch up'. Of course, identifying these areas where Europe could have a comparative advantage can be very difficult – so in some cases European preferencing will not succeed. It also demands tough decision-making: industrial policy inevitably involves bets that do not work out, and so it is essential projects are allowed to fail instead of receiving funding indefinitely because politicians cannot admit mistakes or abandon sunk costs. In this respect:

- The IAA proposal, to its credit, takes more of a scalpel than a sledgehammer. But **the lack of clarity about its objectives still leads the IAA proposal into some mistakes in choosing the targets for protection.** For example, the IAA should not impose "made in Europe" requirements for solar PV systems, at least if the objective is to onshore production: this is a market which is already dominated by China, where Europe is at a distinct cost disadvantage, and where there is little chance of a technological leap that could put Europe back at the forefront. It is also unclear why "legacy" sectors like steel are prioritised, given the industry employs few people and EU is able to procure this material from many other places in the world. Intervention might be justifiable from the perspective of supply chain resilience: but that is a high cost to diversify an input which is far less critical than many others, such as cloud computing or rare earths, where a sudden cease-supply would drive large swathes of the economy to a halt.
- **The Cloud & AI Development Act should be tightly targeted.** Cloud computing is a critical input where the EU is highly reliant on one country. However, efforts to deliver EU champions in this space – such as through the GAIA-X initiative – have been underwhelming. The EU lacks the business models – such as firms with large tech platforms and consequent large-scale computing capacity – that the US hyperscalers built on to succeed, and there is little sign that

¹²⁶ Babara Moens, Sebastian Ash and Florian Müller, above n 63.

¹²⁷ This explains recent economic security initiatives in the EU to protect against leakage of IPR and trade secrets including in the EU Economic Security Strategy.



any country other than the US will create a new hyperscaler. The best strategy might therefore be two-fold: (i) lower costs of switching to give challenger firms better opportunities to win customers; and (ii) encourage or require public authorities to use appropriate secure cloud services (which for the most secure and sensitive dataloads might comprise cloud services which are only subject to EU law), but recognise that these impose an additional cost and are therefore a choice for 'sovereignty' rather than a competitiveness strategy or a decision to use services that have the highest levels of cybersecurity. **Where the Cloud & AI Development Act might be more helpful is in providing support for Europe to build AI leaders in the parts of the sector where Europe is likely to have a comparative advantage.** For example, consumer-facing models tend to require very high computing power, which is energy-hungry, meaning Europe (with its structurally high energy prices is unlikely to be globally competitive).

The European Commission should focus on "no regrets" moves: the few areas where there is almost exclusively economic upside. One of these is to **encourage (and, where that fails, mandate) initiatives to help reduce the time and cost of switching goods and services (and buying from different vendors at the same time) in strategically important sectors.** Improving switching and enabling 'multihoming' is key to enhancing competitive pressure on existing players, while making it easier for newer ones to enter the market. While this is beneficial for EU customers regardless of the nationality of the suppliers, it is an essential part of any EU preferencing strategy, since European suppliers cannot grow in mature markets unless customers are actually able to use them – and since it is not plausible in certain markets such as cloud computing for European cloud companies to offer all the same services as the largest US companies in the short term. A second major reform would be to continue to prioritise developing the single market and, in particular, capital markets. This will ensure that government support for European firms is more efficient (because it can 'crowd in' private funds) and can more easily lead to firms which are competitive on their own merits.

The European Commission should continue to recognise the need for international co-operation with like-minded countries. Many of the sectors in which Europe wants to seek leadership have large economies of scale and network effects. The more different blocs compete with each other – for example, all trying to create their own cloud computing champions – the greater the cost to efficiency. Where the objective is for Europe to enhance its competitiveness, the goal should also be to have firms which are successful *outside*, not just *within*, Europe, which means preventing Europe's major like-minded trading partners from excluding European services. That means a 'divide and conquer' strategy would work best. Australia and Canada, for example, have the resources needed to deliver critical rare earths to Europe; the EU however has a much larger market to serve as key customers for digital technologies. This is not only economically rational but politically sensible: third countries need to see a 'win-win' if they are to co-operate with Europe.

Finally, policy makers need to address the elephant in the room. By and large, the biggest problem with European public procurement and subsidies is not excessive presence of foreign firms – but the opposite problem: public contracts tend to be allocated in an excessively localised manner. This reflects ongoing competition between Member States and an unwillingness to 'think European': which is why, for example, the largest EU Member States are primarily privileging their own domestic cloud providers. Outside the public procurement context, initiatives like Europe's GAIA-X cloud computing initiative failed largely due to competition between its different European members and their interests. **Achieving a genuinely 'European' industrial strategy therefore requires much more**



attention to be given to removing national (and even sub-national) preferencing, rather than only worrying about the role of foreign firms. Just as there is concern about unfair allocation of the benefits of EU preferencing, the same is true of its costs. European preferencing may reduce efficiency and competition (at least in the short term) and this will impose a cost that will probably not be evenly shared across Europe.

Dealing with the consequent distributive questions will inevitably be politically contentious.¹²⁸

Where the objective is to deliver resilience for security reasons, some Member States may have to forego the allure of trying to attract investment to their own countries. A competitiveness-focused European preference may, to be politically feasible, need to consider how to ensure the benefits are distributed across Europe, while still supporting projects on the basis of objective criteria and their potential. In some cases (as with Airbus or the chips sector) projects may naturally rely on the different comparative advantages of different Member States. However, not all projects which are the most growth-enhancing or important for security will be those with the greatest EU-wide spillovers. Policy makers will need to take into account the political imperative of delivering benefits to all of Europe, not just one or two countries.

The benefits and risks of European preferencing are context-specific. While the economic policies of the US and China are not always aligned with, and in some cases directly harm European interests, that does not mean Europe can, or should, blithely follow the same rulebook. A shift away from a level playing field makes more sense in some sectors and economic activities than others – and it should not necessarily take the same shape in all sectors. This will require a targeted and disciplined approach, informed by clear and prioritised objectives and economic realism.

¹²⁸ See Wolf, above n 66.



About CERRE

Providing high quality studies and dissemination activities, the Centre on Regulation in Europe (CERRE) is a not-for-profit think tank. It promotes robust and consistent regulation in Europe's network, digital industry, and service sectors. CERRE's members are regulatory authorities and companies operating in these sectors, as well as universities.

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