

UNIFE position paper

The Industrial Accelerator Act

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The Industrial Accelerator Act: A much-needed initiative to support European preference

UNIFE – the Association of the European Rail Supply Industry – welcomes the European Commission’s proposal for an Industrial Accelerator Act (IAA) and supports its overarching objective of reinforcing Europe’s industrial resilience, strengthening strategic value chains, and ensuring that the Union can meet its long-term autonomy and sustainability goals.

As the vast majority of rail and urban transport operators are public authorities, public procurement is by far the predominant process for rail projects in Europe. Therefore, **the IAA could have a major impact on the rail sector and supply industry**, depending on the scope of Chapter III (‘Strengthening the Union’s strategic industrial value chains’) and relevant Annexes.

From UNIFE’s perspective, **the IAA represents a timely and proportionate response to a global trend that continues to challenge European rail suppliers**. As major rail markets worldwide increasingly tighten localisation and/or investment requirements, European companies face steadily shrinking access to international procurement opportunities. In this context, UNIFE supports the balanced framework proposed by the European Commission, which avoids mirroring the most restrictive third-country practices and takes into account the complexities of global value chains, while seeking to safeguard competitiveness of European manufacturing.

The European Rail Supply Industry stands ready to contribute to this ambition and to work with the European Parliament, the Council, and the Commission to ensure that the IAA becomes a powerful instrument strengthening Europe’s industrial competitiveness.

Key messages:

- **UNIFE supports the IAA’s overarching objectives, in particular on Chapter III dealing with public procurement.**
- **UNIFE believes that the IAA provides a timely and proportionate framework to ensure that Europe maintains its leadership in the face of increasing and unfair global competition.**

Rail recognised as critical to the Union's economic security (Article 29)

UNIFE particularly welcomes the following reference in Article 29 on the review of the IAA, which opens the door to future provisions specific to rail:

'When carrying out its review, the Commission shall pay particular attention to (...) the necessity to introduce Union origin requirements for products from certain sectors critical to the Union's economic security, notably the building of (...) rail rolling stock.'

This recognition reflects the strategic nature of the rail supply industry and the need to safeguard Europe's industrial capabilities in a sector where global competition is increasingly shaped by foreign State-owned players. Indeed, the EU-25 rail market accounted for €62.6 bn per annum in the period 2023-2025, out of which €20.2 bn per annum for rolling stock – which represents considerable asset value.

The European Rail Supply Industry indeed is a strategic industrial ecosystem in several respects:

Industrial sovereignty and autonomy

The European Rail Supply Industry is strategic because it provides key technologies, products and services for rolling stock, infrastructure and signalling that move millions of passengers every day and carry goods of an estimate 375 billion tonne-kilometres every year in the EU. Without these solutions, the economy would be paralysed.

UNIFE Members have a strong economic footprint, with an aggregate turnover of rail activities of € 48.1 billion (2025). The industry provides high-quality employment, accounting for approximately 650,000 jobs across Europe including construction, which makes it vital to the continent's economic security and future prosperity. With sustained R&D spending, the European RSI drives next-generation technologies crucial for competitiveness, digitalisation and decarbonisation. This includes rolling-out the European Rail Traffic Management System (ERTMS) and the Future Railway Mobile Communication System (FRMCS) – the next-generation, 5G-based global standard for railway communication.

Beyond the risks posed by hybrid threats, **it is essential to ensure that Europe remains in the technological lead and to avoid strategic dependencies on third country suppliers.**

Critical infrastructure and military mobility

Rail is explicitly recognised as critical infrastructure within the EU's cybersecurity and resilience architecture, highlighting the importance to ensure that Europe remains in the technological lead and to avoid strategic dependencies on suppliers from third country – including state-owned or controlled actors.

Rail is also integral to the EU military mobility and defence strategy. In this context, the European Rail Supply Industry plays an indispensable and strategic role in enabling military mobility across the continent. The industry also plays a part in shaping the requirements for a secure railway network enabling the deployment of military assets.

Key message:

UNIFE supports the possibility to introduce Union origin requirements for rail rolling stock as critical to the Union's economic security in the future review of the IAA. The possibility to have measures – where appropriate and in concertation with the industry – in the future is an essential forward-looking milestone to ensure Europe's long-term industrial sovereignty.

Scope of the Act and application to rail (Article 11/Annex II)

Rail supply is currently not directly covered by the IAA as it is not listed among the targeted industries in the Annexes (energy-intensive industries, automotive industry).

However, certain IAA provisions apply across multiple industries and sectors and will affect rail supply, more specifically:

- net-zero technologies; and
- Annex II on low-carbon and Union origin requirements for energy intensive industries.

Support for the exclusion of third country bidders under Article 11 (1)

UNIFE's understanding of the IAA proposal is that the obligations set out in Annex II regarding steel, concrete and mortar, and aluminium will concern '*infrastructure*' public procurement projects, which includes rail infrastructure projects (but not rolling stock projects).

UNIFE supports the provisions on Union origin and low carbon requirements for steel, aluminium, concrete and mortar insofar as they are strictly conditioned to paragraph 1 of Article 11 on public procurement, which provides for a uniform and mandatory exclusion of third country bidders coming from countries with which the EU has no international agreement on public procurement from these projects. In practice, this would mean that bidders owned or controlled by entities established in those third countries would not be able to bid in these rail infrastructure projects, which UNIFE has fully supported in its detailed position paper on public procurement (January 2025).

This approach is also in line with the Qingdao judgment of the Court of Justice of the EU (13 March 2025, C-266/22), in which the Court affirmed that rules on third-country bidder access fall under the EU's common commercial policy and are therefore of exclusive EU competence. With the IAA, the European Commission exerts this competence on public procurement procedures related to certain sectors.

However, it is important that **delegated acts define specifically what '*infrastructure*' is, in particular for rail projects**. For example, would trackside signalling or operation control projects be considered as '*infrastructure*'? And in the case of turnkey projects – a comprehensive delivery model where the contractor manages all aspects of a rail project delivering a fully operational system (metro, tram, or high-speed), would third country bidders then be excluded from the procurement process?

Additionally, it would be important to **define thresholds for steel, aluminium as well as concrete/ mortar for the requirements under Annex II to be triggered** (for example in tonnes of material used of value measured against overall project value). Otherwise, the usage of a small amount of covered materials – e.g. 100 kg of aluminium – would already trigger EU origin and low carbon requirements, which may have a disproportionate impact.

Further extension of the obligations of Annex II should be carefully considered

As mentioned above, the sector's understanding of '*infrastructure*' does not cover railway vehicles, i.e. there would be no application of Annex II obligations related to the use of steel, aluminium and concrete/mortar for rolling stock public procurement projects.

While there is openness by the rail supply industry to consider the idea in the long run with the appropriate accompanying measures, it is still too early to apply these requirements to railway vehicles, notably for the following reasons:

- For aluminium in particular, supply constraints on the provision of alloys of a sufficiently high quality, of the specific dimensions and low overall volumes needed for rail rolling stock;
- Uncertainty on the criteria that will define '*low-carbon*' steel and aluminium as per the Digital Product Passports and the availability of supply meeting these criteria to be defined;

The sector faces significant uncertainty due to multiple regulations with substantial impact being implemented or proposed concurrently. The Cybersecurity Act is one example. Predicting how these regulations will interact and affect the industry remains challenging.

Key messages:

- UNIFE supports the obligations set out in Annex II for (rail) infrastructure projects insofar as they are strictly conditioned to paragraph 1 of Article 11 on public procurement and lead to the exclusion of third country bidders that do not have secure access to the EU procurement market for these projects.
- Without paragraph 1 of Article 11, UNIFE would oppose Annex II obligations since they would create additional burden for downstream industries without a mutually beneficial value chain approach.
- Minimum thresholds for use of steel, aluminium, concrete/mortar should be introduced to avoid that small quantities of covered material used trigger extensive compliance burden.
- UNIFE calls for clarifications in upcoming secondary legislation on the term '*infrastructure*' and the types of projects it would cover for rail in order to ensure legal certainty for suppliers and contracting entities alike.
- Extending the obligations of Annex II to other rail segments such as rolling stock should be carefully considered in the future with the eventual revision of the Regulation, taking into account the structural specificities and constraints of the rail supply industry and in close consultation with the sector.

Proposed Union origin definition (Articles 7-8)

Support to the Union origin definition, i.e. extended to trusted partners

Article 8 represents the first balanced attempt to define content equivalent to Union origin in public procurement at EU level.

The recognition of inputs from certain relevant third countries with which the EU has obligations under Free Trade Agreements (FTAs), customs unions, or the WTO Agreement on Government Procurement (GPA) is a pragmatic way to reflect the complexity of global value chains on which the rail supply industry – just as many manufacturing industries – depends.

Clarifications and improvements needed

Regardless of the currently proposed scope of the IAA, several elements in Article 8 require clarification to ensure legal certainty and planning reliability for economic operators.

The reference to '*relevant obligations of the Union*' in paragraph 1 is, as it stands, confusing. **It should be made clear that only countries with robust and reciprocal bilateral and/or plurilateral public procurement commitments toward the EU are included.** For example, UNIFE's understanding is that the EU-India FTA or the EU-Turkey Customs Union agreement would not be considered as creating '*relevant obligations*'.

Although the specific situation of candidate countries is mentioned in recital (17), it is important to ensure that the definition of Union origin also encompasses candidate countries which have displayed a sufficient level of integration and mutual access to procurement markets and are part of the extended TEN-T networks (e.g. Serbia). However, it should also be ensured that the risk of circumvention is effectively tackled, as those countries might be used by certain third countries to bypass the Union origin rules.

Last but not least, **exclusion grounds in paragraph 2 are not sufficiently clear.** The failure to provide national treatment (point a) is limited only to the sectors listed in Annex I but no justification is provided, and the dependency and exceptions under agreements (points b) and c)) are not sufficiently qualified. In particular, exclusion ground (c), as currently drafted, is overly broad and may create significant interpretative discretion, thereby reducing legal predictability for companies with established and transparent operations in the Union. The provision would benefit from greater specificity and clearer objective parameters, ensuring that its application remains proportionate, transparent, and aligned with the principles of EU law.

Predictability of the definition needs to be reinforced

In general, delegated acts are more agile politically but shall create uncertainty for bidders – especially in view of sudden exclusions which can severely impact long-term established supply chains.

The process and timelines for excluding a country via delegated acts, including reasonable transition periods, must be defined, addressing concerns on how to address ongoing procurement procedures – particularly when pre-qualification has been completed, offers submitted, or supply chains are already committed or otherwise established. Furthermore, it is unclear what is meant by the EU Commission may exclude a country '*in whole or in part*'.

Stability in the list of countries and/or specific market exclusions needs to be ensured as much as possible by avoiding too frequent changes and reviews of delegated acts.

Bearing in mind that rail rolling stock could be subject to Union origin requirements in the future revision of the IAA, **UNIFE would support the establishment by a delegated act of a 'white list'** identifying the countries for which (reciprocal) procurement commitments in the rail sector exist. This would enhance transparency and predictability for suppliers and contracting entities alike.

Key messages:

- **UNIFE supports the proposed Union origin definition allowing for a broader definition of ‘Made in Europe’ that takes into account the complexity of global value chains.**
- **UNIFE calls for clear reciprocal public procurement commitments to qualify for Union origin.**
- **UNIFE highlights the need to reinforce predictability, notably by clarifying exclusion grounds and by ensuring stability and transparency regarding the list of trusted partners.**
- **In view of a future revision of the IAA and possible Union origin requirements for rail rolling stock, a ‘white list’ identifying the countries for which (reciprocal) procurement commitments in the rail sector exist would provide transparency and predictability. It should be made clear that ‘Union origin’ requirements become binding only if and when the white list has been published by a delegated act and after a reasonable transition period for adaptation has elapsed.**

Feasibility of the system for public procurement (Article 11)

Support to a lean and simple self-declaration system

UNIFE appreciates and supports the 'light' self-declaration system – i.e. without third party assessment – which has been proposed to limit the administrative burden of economic operators participating in public procurement procedures. It seems also more realistic from the perspective of the rail sector, which is a highly tailor-made and project-based industry; in practice, this means that the origin of requirements cannot be defined in full detail at the tender stage since the product is yet to be designed and the design phase will impact sourcing decisions.

There should of course be clear guidelines to provide the relevant elements in the self-declaration – which should itself be standardised.

Clear and robust enforcement needed

In comparing other level-playing field instruments, the Foreign Subsidies Regulation (FSR) has a strong enforcement mechanism at central level, with clear responsibilities defined. This is not the case in the IAA and **the absence of clearly defined enforcement provisions in the current text presents several risks:**

- ▶ First, insufficient clarity regarding the respective responsibilities of contracting authorities, contracting entities and the European Commission may lead certain suppliers to underestimate the binding nature of the requirements and therefore fail to take compliance obligations seriously. The Act would therefore miss its very objectives.
- ▶ Second, if enforcement mechanisms and sanctioning procedures are not properly articulated, there is a significant risk that any penalties eventually imposed could be perceived as arbitrary, inconsistent, or disproportionate, thereby increasing the likelihood of legal challenges and administrative disputes.

The IAA is expected to have a much bigger impact on public procurement than the FSR; **establishing control mechanisms at national level with a common methodology would therefore be more realistic.** Currently, Article 16 stipulates that *'implementing acts (...) may establish methods and procedures to be applied by the relevant competent national authorities, including contracting authorities and contracting entities, to verify compliance with the requirements laid down in the Regulation'*, and Article 32 that *'Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation'*.

However, **the responsibilities of the different levels (European Commission, Member States, contracting entities) are highly unclear at this stage.** UNIFE believes that the self-declaration of the successful tenderer should be subject to verification by the contracting authority (in line with Recital 26, which refers to Article 59 of Directive 2014/24/EU). Contracting entities themselves should also be entrusted to reasonably verify the compliance of any supplier.

Furthermore, **bidders in the framework of a specific procedure should be able to alert competent authorities based on initial suspicions of non-compliance** in order to trigger *ex-post* controls by the European Commission and/or national authorities, thereby preventing unreliable or inaccurate self-declarations.

Last but not least, **there should be sanctions defined and enforced by the European Commission – i.e. with broader implications than just the procurement procedure in question – regarding bidders which would be found to “have constructed” a false declaration;** this would strengthen the credibility of the obligations and mitigate the risk of anti-circumvention.

Reservations on exception c) (paragraph 3) to apply requirements set out in Annexes

Paragraph 3 of Article 11 lays out (non-cumulative) conditions under which contracting authorities and entities may decide not to apply the requirements set out in Annexes II and III. While exceptions are necessary not to delay or block procurement procedures and implementation of projects, **UNIFE has significant concerns on exception c), which**

would allow contracting entities not to apply the obligations in case of '*disproportionate costs*' or for '*cost differences exceeding 25%*'.

In the railway sector, undercutting prices has been observed as common practice of certain third country economic operators (as seen in two FSR investigations that focused on railway procurement procedures) – often going beyond the 25% difference. Against this background, a number of questions should be raised and exception c) should be more carefully framed:

- ▶ What is the basis for the 25% cost increase – the overall project volume or a specific product?
- ▶ The 25% cost difference should be an absolute minimum based on a sound and comparable price matrix that integrates the FSR and CO2 allowances cost. This is indispensable in so far as we see price differences up to 50% if foreign subsidies, CO2- or even sanctions-related costs (e.g. for alternative sourcing of raw materials) are not taken out from the calculation.
- ▶ The mention that cost differences should be “based on objective and transparent data” is positive, but what will be the basis for the estimated cost difference (international, European, national)? Where will contracting entities get the data from, how much data would they have to gather and under which timeframe? In practice, contracting entities would have a lot of discretion. Providing accurate and transparent documentation in a reasonable timeline should be an absolute requirement.
- ▶ There should be a reasonable possibility for bidders to challenge the use of exceptions.

Key messages:

- **UNIFE supports the 'light' self-declaration system to limit the administrative burden of economic operators participating in public procurement procedures. However, clear guidance on how economic operators can demonstrate compliance via self-declaration should be provided.**
- **A transparent, clear and predictable enforcement mechanism should be implemented to ensure the credibility of the public procurement provisions. Responsibilities between the different levels should be clarified both for the procurement procedures and for ex-post controls. Bidders in the framework of a specific procedure should be able to alert competent authorities.**
- **Exception c), which would allow contracting entities not to apply the obligations in case of '*disproportionate costs*' or for '*cost differences exceeding 25%*', should be more carefully framed to ensure full transparency and that the price difference takes into account existing mechanisms (FSR, CO2...). The 25% price difference should be the absolute minimum.**
- **There should be a reasonable possibility for bidders to challenge the use of exceptions.**

Framework for foreign investment (Chapter IV)

A legitimate and potentially effective tool

The mechanism acknowledges that certain large foreign investments, particularly from countries with dominant global manufacturing positions, can create risks for the Union (e.g. structural overcapacity, dependency in critical value chains, and competition distortions across borders). Addressing such risks through an industrial-policy-oriented instrument is therefore appropriate and consistent with the Union's objectives of resilience and strategic autonomy.

By focusing on value creation, innovation, employment and resilience, the mechanism goes beyond defensive screening and aims at shaping investment outcomes in a way that strengthens Europe's industrial ecosystem. From this perspective, **it is a legitimate and potentially effective policy tool.**

A centralised model would enhance coherence and effectiveness

The currently proposed decentralised multi-layered enforcement model nonetheless raises significant concerns. Unlike the national-security risks addressed by traditional Member State FDI regimes, this mechanism targets broader concerns relating to market structure dynamics and supply-chain dependencies that affect the Union as a whole. These effects are rarely confined to the Member State hosting an investment and may span over multiple Member States.

In this context, the European Commission – as opposed to national investment authorities – is institutionally best placed to assess Union-wide effects and to balance short-term national benefits against potential long-term harm to the Single Market. The proposed text appears to acknowledge this by granting the Commission a 'take-over' power. However, this solution results in an unnecessarily complex, multi-layered enforcement system – it multiplies notification obligations, creates uncertainty as to which authority will ultimately be competent to decide.

A fully centralised enforcement model, in which the Commission acts as the sole decision-making authority, would be clearer, faster and more predictable. It would ensure greater coherence with other Single Market instruments, such as EU merger control and the foreign subsidies regime, where centralised enforcement has proven both effective and widely accepted.

If decision-making remains multi-layered, procedural uncertainty should be reduced

The current design leaves companies uncertain as to which authority will ultimately be competent, potentially late in the review process, increasing compliance costs and undermining deal certainty.

To improve predictability and transparency, **the Regulation should replace discretionary grounds with objective and clearly articulated criteria governing when a take-over may occur.** This could, e.g., be the case when more than one national investment authority would be competent to review the investment in question or where the investment has a value exceeding EUR 1 billion. In addition, compulsory notice requirements and strict timelines for any take-over decision should be introduced to prevent unexpected procedural shifts and delays.

A clear, predictable scope needed

The mechanism currently defines strategic sectors in a broad and potentially expandable manner. For companies operating outside those sectors, this creates uncertainty as to whether future transactions, partnerships or supply-chain activities could unexpectedly fall within the scope of the mechanism.

To ensure legal certainty and protect legitimate investment expectations, **the scope of the mechanism should be clearly and exhaustively defined in the Regulation itself.** Any expansion to additional sectors should be subject to the ordinary legislative procedure, rather than delegated acts. In addition, a clear 'no-impact' safe harbor should be introduced to confirm that incidental or marginal links to a targeted sector do not trigger the applicability of the mechanism.

Safeguarding investment timelines for non-targeted sectors

As an additional layer of scrutiny, the mechanism risks slowing down transactions that only tangentially interact with targeted sectors. Even where an investment does not raise substantive concerns, the mere possibility of screening may introduce procedural uncertainty, indirectly affecting investment flows and increasing transactional costs for companies outside the IAA's core focus.

To mitigate these effects, **a fast-track 'non-applicability confirmation' procedure should be established for companies clearly operating outside the mechanism scope**. In addition, strict and binding time limits should apply to any preliminary assessment of applicability, ensuring that non-targeted investments are not subject to prolonged uncertainty or procedural delay.

Transparency of decisions and market impact

Decisions taken under the mechanism may have indirect effects on supply chains and competitive dynamics beyond the targeted sectors. Without transparency, companies are unable to assess these impacts or adjust their strategies accordingly.

To support predictability and informed decision-making, **the Commission should publish its decisions and regular public reports on the operation of the mechanism**. Enhanced transparency would improve accountability, foster consistent application, and build confidence in the proportional and targeted use of the mechanism.

Key messages:

- **UNIFE supports the proposed framework for foreign investment but would favour a fully centralised enforcement model, in which the Commission acts as the sole decision-making authority.**
- **Should the proposed multi-layer system be maintained, procedural uncertainty should be reduced, and clarity and predictability further increased, including by safeguarding investment timelines for non-targeted sectors.**

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