



CER Position Paper

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Industrial Accelerator Act

1. Introduction

The European rail ecosystem—accounting for €247 billion of EU GDP and supporting over 3 million jobs—broadly welcomes the European Commission’s Industrial Accelerator Act (IAA). As the backbone of Europe’s sustainable mobility, rail offers the lowest carbon footprint of any transport mode while driving regional cohesion and industrial competitiveness. We support the IAA’s ambition to reverse the decline in European manufacturing, strengthen strategic value chains, and accelerate decarbonisation. To support the effective implementation of these measures, we offer the following observations aimed at preserving the economic viability of strategic downstream sectors such as the rail industry. This is essential to ensure that the objectives of the Green Deal are achieved without compromising the sector’s operational stability.

2. Public Procurement

2.1 Modernising public procurement and supply chain resilience

The rail sector supports the strategic use of public procurement to foster economic security and resilience. As outlined in the [CER-UNIFE Joint Declaration](#), Europe needs a modernised procurement framework that reduces administrative rigidity, promotes life-cycle sustainability, and ensures a level playing field between European and third-country suppliers. However, consistency with existing provisions in the policy area must be strictly ensured, as set out in the proposal’s explanatory memorandum. While the IAA defines the framework for what constitutes ‘Made in Europe’ procurement, the forthcoming revision of the public procurement legal framework will specify how such procurement is to be implemented. Procurement-related provisions shall be addressed exclusively within the existing EU procurement framework (Directives 2014/23, 2014/24 and 2014/25) or through established instruments such as the International Procurement Instrument (IPI). Including procurement rules in the IAA creates overlaps, additional complexity and legal uncertainty. Existing instruments such as the IPI and the Foreign Subsidies Regulation (FSR) already provide adequate and targeted tools to address market distortions and should be used instead of duplicating requirements.

We note the findings of the IAA Impact Assessment, which indicate that mandating low-carbon and “Made in EU” requirements for upstream energy-intensive materials (such as steel and aluminium) will generate a “green premium,” increasing costs for downstream sectors. In the short term, restricting public procurement to low-carbon and “Made in EU” materials is likely to result in supply bottlenecks and price increases. In the medium term, market conditions are expected to stabilise if production capacities adjust.

In the rail sector, where long-term investment cycles and thin margins are the norm, such premiums must be offset by dedicated financial instruments to avoid a slowdown in fleet renewal. Furthermore, compliance and verification of these new requirements risk generating additional administrative burdens. It is vital that the implementation of these procurement rules remain flexible, avoid market distortions, and does not slow down the priority for infrastructure regeneration and modernization that are urgently needed and are essential to ensuring the competitiveness and attractiveness of the rail sector.

Finally, if cybersecurity requirements for energy supply networks are explicitly defined, these principles could also be readily applied to railway infrastructure, given their comparable functional characteristics. Such requirements would have a direct impact on the procurement of control, signaling, safety, and telecommunications systems.

Restricting procurement to products of European origin could entail significant operational, financial, and supply-chain implications, which would require further assessment.

2.2. Towards a Reform of Public Procurement

As public procurement for a new train can take up to 8 years and for an infrastructure project up to 15 years, CER calls for simpler and smarter public procurement. Updating the EU's relevant framework is necessary to transform it into a more effective, less complex and better aligned tool with the EU's ambition to make transport more sustainable and competitive. Here are a few key proposals:

- CER proposes revising financial thresholds more frequently and flexibly, reflecting inflation and sectoral cost increases. This should be coupled with streamlined procedures and reduced documentation requirements for recurring rail investments.
- Ensure alignment with Foreign Subsidies Regulation processes to avoid duplicative checks and disproportionate exclusion risks.
- Simplify exclusion rules and procedures. Consolidate overlapping sectoral provisions into a single, clearer instrument under the announced Public Procurement Act.
- Public operators competing in public service obligations (PSO) tenders should not face additional procurement constraints and should be exempted from the Public Procurement Rules for purchases made by these operators that are bidders in competitive bidding processes and/or holders of a contract awarded through such processes to ensure a true level playing field between public and private undertakings and fair competition in PSO tenders.
- Clearly identify rail liberalised markets such as tendered PSOs contracts, High Speed services, and so on. State Owned Companies operating in these markets shall be exempted from Public Procurement Obligations.
- Promoting the use of the Most Economically Advantageous Tender (MEAT) criteria without making them mandatory, thus respecting the diversity of procurement contexts and the autonomy of contracting authorities.
- Defense and sensitive security procurement must be simplified to replenish and increase dual-use rolling stock (i.e. with the potential to be used also for military purposes).

2.3 Ensure fair competition between public and private purchasers

The European Commission's proposal imposes an obligation on contracting authorities and contracting entities to exclude from access to procurement procedures tenders submitted by economic operators owned or controlled by an entity established in third countries which have not concluded an international agreement with the Union guaranteeing such access. This creates an unfair competitive advantage for private operators in sectors like public works, rolling stock and spare parts, where both compete directly. Public purchasers are restricted from accessing potentially more competitive offers, while private purchasers face no such limitations. This asymmetry, unjustified by the nature of the activities, weakens public entities' competitiveness and ability to optimize procurement. To address this, the provisions should be made optional for contracting authorities and contracting entities.

Exceptions to Union content and low-carbon requirements must be preserved to maintain operational flexibility.

Moreover, it would be appropriate to exclude from the application of the IAA, in particular the application of the Union origin requirements and low-carbon requirements, public procurement procedures related to responses to calls for tenders and the performance of the resulting public service contracts. This is consistent with CER's broader objective of ensuring a level playing field between public and private operators in competitively awarded PSO tenders. It would also help restore some level playing field with private competitors in the context of responses to calls for tenders.

2.4 Clarify provisions defining Union content and facilitate their application for public purchasers

2.4.1 Provide public purchasers with a list of applicable international agreements

Under the proposal, content from countries covered by free trade areas, customs agreements, or the Government Procurement Agreement (GPA) may be considered Union content (Article 8, paragraph 1). However, public purchasers currently lack a centralized, up-to-date list of these countries, making it burdensome to track and apply the provisions effectively. Clarifying the roles and responsibilities of stakeholders—such as the consequences of delays in updating these lists—is essential to avoid legal uncertainty. Public purchasers, often constrained by time and resources, need accurate and accessible data to comply with the regulation.

2.4.2. Limit fragmentation of third-country exclusion mechanisms

The Commission plans to use delegated acts to exclude third countries from Article 8(1) of the IAA, but multiple existing mechanisms already address this, including:

- Public procurement directives (e.g., Article 85 of Directive 2014/25) under revision;
- The Foreign Subsidies Regulation (FSR);
- The Net-Zero Industry Act (NZIA);
- EU case law (e.g., Kolin and Qingdao rulings);
- The International Procurement Instrument (IPI).

This fragmentation creates legal uncertainty, administrative burdens, and compliance risks for purchasers.

The interaction with the FSR is particularly problematic, as it risks duplicating administrative efforts without adding value. FSR already requires bidders to declare foreign financial contributions and empowers the Commission to investigate distortive subsidies. Layering the IAA's ownership and control verification obligations on top of FSR notifications risks duplicating administrative burden for both contracting authorities and economic operators without adding substantive value. Consistent with CER's [position](#) on public procurement reform, FSR procedures should not delay contract awards, automatic exclusion on purely formal grounds should be avoided, and any new IAA verification requirements should be designed to draw on, rather than duplicate, information already submitted under the FSR. The Commission should issue practical guidance ensuring that ownership, control, and foreign-subsidy checks are conducted in a single, coordinated process.

To streamline the process, the Commission should harmonize or centralize these mechanisms, ensuring simplicity and effectiveness. Delegated acts excluding third countries could be integrated into the list of international agreements mentioned above.

2.4.3 Streamline and clarify verification obligations for public purchasers

Article 11(1) of the IAA requires public purchasers to exclude bids from economic operators owned or controlled by entities in certain third countries. However, verifying such control or ownership is complex:

- It demands analysis of intricate capital structures, including indirect holdings or de facto control, which are often opaque.
- The process is further complicated in cases of joint ventures or consortia.
- The obligation does not extend to subcontractors, limiting its effectiveness.

Article 11(4) shifts the burden of proof to bidders, requiring them to submit self-declarations of compliance. While this reduces the burden on purchasers, it raises questions about the effectiveness of the provisions and the legal responsibility of purchasers in verifying these declarations. The scope of due diligence remains unclear: Can purchasers rely solely on declarations, or must they verify their accuracy? Additionally, the lack of clarity on ex-post verification during contract execution exposes purchasers to legal risks.

2.5 Expand the list of possible exemptions from Union content and low-carbon requirements

Article 11(3) provides limited exemptions from Union content and low-carbon requirements (e.g., sole supplier, unsuccessful procurement, technical incompatibility). To enhance flexibility, the list should be expanded to include: (i) Emergency situations; (ii) critical security requirements; (iii) The use of innovative technologies.

The 25% extra cost exemption also requires clarification: Does it apply to the total contract value or only to the portion subject to Union content and low-carbon requirements? CER proposes a lower threshold applied to specific product components. Finally, public buyers must exclude bids from economic operators owned or controlled by entities in third countries without market access agreements (Annex II, Part I and Annex III, Part I). A derogation from this exclusion obligation should be introduced.

3. Energy competitiveness

The Impact Assessment rightly identifies high energy costs as a primary driver of Europe's industrial decline and loss of competitiveness. This is of existential importance to our sector: European rail traffic is 80% electrified, making railways the largest single electricity consumer in many Member States. While this high electrification rate makes rail a leader in decarbonisation, it also leaves the sector uniquely vulnerable to energy price shocks. To successfully absorb the upstream green premiums introduced by the IAA, railways urgently require complementary measures that guarantee stable and competitive clean-energy prices. Read [here](#) CER energy prices economic note.

The 'green premium' associated with IAA requirements represents a tangible financing risk for large-scale rail infrastructure projects, particularly in Member States with persistently

high energy costs. Even moderate percentage increases translate into significant additional CAPEX and may lead to project delays or scope reductions unless adequately compensated by increased EU funding, notably under the Connecting Europe Facility. A clear link between additional regulatory requirements and reinforced EU financial support is therefore essential.

4. Accelerating permitting and access to investment

We strongly support the IAA's measures to cut red tape through a "one project, one digital procedure" approach and the establishment of Industrial Acceleration Areas with tacit approvals. Lengthy and fragmented administrative processes have long been a bottleneck and the challenges affecting permitting procedures are systemic and occur across multiple stages of project development. Extending the simplification of permitting procedures to large-scale works will ensure the acceleration of industrial capacity and decarbonisation in these strategic sectors covered by the Act. However, accelerated permitting must be matched by robust financial backing. To deploy digital enablers like ERTMS, expand high-speed networks, and sustain European research through Europe's Rail Joint Undertaking, the EU must ensure a highly ambitious Multiannual Financial Framework (MFF) 2028–2034 with a significantly reinforced Connecting Europe Facility (CEF). In addition, it is crucial that the IAA takes into consideration the parallel proposal on the Regulation of speeding-up environmental assessment. In this context, we welcome that energy-intensive industry decarbonisation projects, industrial manufacturing projects located in industrial manufacturing acceleration areas, and net-zero technology projects will be included in the Toolbox of the Annex of the Regulation and considered as strategic sectors, thereby accelerating the grant-permit procedures. In general, the facilitation of permitting procedures and the tightening of procurement rules are distinct policy areas and must be assessed separately. Otherwise, any acceleration achieved in permitting risks being offset by increased verification and documentation requirements in procurement.

About CER

The Community of European Railway and Infrastructure Companies (CER) brings together railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The diverse and comprehensive membership made up of long-established bodies, new entrants and both private and public enterprises, covers the large majority of the rail infrastructure network, rail freight business and rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a resilient, competitive, and sustainable transport system in Europe. For more information, visit www.cer.be or follow us on social media.

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