



MADE IN EUROPE, INADVERTENTLY: ORIGIN PREFERENCE IN EU PROCUREMENT AND FUNDING

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SUMMARY

Since 2022, and against an increasingly difficult geopolitical landscape, the EU has built a body of law that conditions access to public contracts, and to the EU funding linked to them, on EU origin, control or production. It did not design this body of law. It accumulated it, instrument by instrument, none drafted to fit the others. The result is a regime of origin preference whose shape becomes visible only when the instruments are laid side by side.

This CEPS In-Depth Analysis report lays them side by side. It maps the 'Made in Europe' measures along two dimensions. The first is the substantive technique they employ: diversification, reciprocity, EU origin content, and requirements on the establishment, control and production location of operators. The second is the legal vehicle through which the obligation is imposed: legislative acts, the eligibility rules of EU funding programmes, and the administrative frameworks adopted by contracting authorities and EU institutional bodies.

The map reveals an asymmetry that no single instrument discloses. The most expansive technique, which reaches the corporate identity of the operator rather than the origin of the product, is also the only one present across all three legal vehicles. It is concentrated in precisely those channels least exposed to judicial review, to democratic deliberation or to the EU's external commitments. The Cloud and AI Development Act, proposed on 3 June 2026, marks the moment at which this technique has begun to migrate from administrative practice into binding law.

Assessed against the Treaties, the WTO Government Procurement Agreement and EU free trade agreements, and against the economic evidence on local-content requirements, the regime carries a consistent message. Configurations that structurally exclude third-country participation, which this analysis calls 'Made in Europe', prove systematically more costly, in legal exposure, price and administrative burden, than 'Made with Europe' configurations, which allow such participation subject to operational safeguards.

From this, the analysis derives five principles for the design and review of any origin-preference instrument, whatever its legal vehicle: justification under primary law; external compatibility demonstrated rather than presumed; review procedures correlated with substantive obligations; a preference for operational mitigation over structural exclusion; and coherence across instruments as a design objective rather than an accident. The principles do not settle the choice between openness and strategic autonomy. They set the conditions that any such choice must satisfy to be lawful, compatible with the EU's commitments, economically defensible and administratively coherent. They are, in the end, the conditions the EU has long asked of others.



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1. INTRODUCTION

Since 2022 and against an increasingly adverse geopolitical environment, the European Union has adopted a series of measures that condition access to public contracts and to EU funding linked to public contracts on EU origin, control or production. These measures are commonly grouped under the label 'Made in Europe' (García Bercero et al., 2026).

Examples of them can be found in the International Procurement Instrument (IPI), the Net-Zero Industry Act (NZIA), the proposed Industrial Accelerator Act (IAA), the Security Action for Europe (SAFE) instrument and European Defence Industry Programme (EDIP), as well as the Critical Medicines Act proposal. They can also be seen in the Commission's Cloud Sovereignty Framework, the Cloud and AI Development Act proposed on 3 June 2026 as part of the Commission's Tech Sovereignty Package, and the procurement policy applied by the European Central Bank to the digital euro.

These measures have not been designed as a single regime. They have emerged instrument by instrument, across three distinct vehicles: legislation, the eligibility rules of EU funding programmes, and administrative frameworks adopted by contracting authorities or by EU bodies for their own procurement. The revision of the general procurement framework adopted in 2014 – the 'Public Procurement Act' envisaged in the Commission's 2026 Work Programme – does not, on its own, resolve the questions raised by Made in Europe, whatever its timing and final content. That is because their answers depend on legal anchors that lie outside the procurement framework: internally, in the Treaties; externally, in the WTO Government Procurement Agreement (GPA) and in EU free trade agreements (FTAs).

This analysis does three things. It maps the Made in Europe measures along two dimensions, by substantive technique and by normative source. It evaluates the resulting architecture against the Treaties, against the EU's external commitments, and against the available economic evidence on origin preference. And it derives implications for the design of any instrument in this family, regardless of the legal vehicle through which it is adopted.

The analysis reveals several findings. First, the 2014 Directives are largely silent on origin-based differentiation against third-country operators, which leaves space for Made in Europe to operate without contradicting them, but the Treaties and the EU's external commitments constrain how that space can be filled. Second, the measures cluster asymmetrically: the most expansive technique, requirements on the establishment and control of operators, is the one most often imposed through administrative channels with weaker judicial review. Third, the architecture imposes economic, legal and administrative costs. Made in Europe configurations are systematically more costly in

each of these respects than Made with Europe configurations, in which third-country participation is allowed subject to operational safeguards rather than excluded structurally.

From these findings the analysis derives five principles for the design and review of any Made in Europe instrument:

- differentiation by ultimate parent must be justified under primary law, with explicit articulation against Article 63 of the Treaty on the Functioning of the European Union (TFEU);
- external compatibility with the GPA and the EU's FTAs must be demonstrated, not presumed;
- substantive obligations must have procedural correlates – review avenues commensurate with the effect of the instrument;
- operational mitigation should be preferred to structural exclusion when the policy objective can be achieved through 'Made with Europe' configurations;
- coherence across instruments must be a design objective rather than an externality of fragmented institutional decision-making.

The method is doctrinal. Instruments are identified through legislation, Commission proposals, and operational application in tenders. They are classified by technique and channel. Their compatibility is assessed against the Treaties and the GPA. Economic evidence is drawn from the published literature on local-content requirements and the empirical literature on competition in EU procurement markets.

Section 2 develops the taxonomy and applies it. Section 3 assesses the result on legal, economic and administrative grounds. Section 4 sets out the five principles in full. Section 5 concludes.

2. ORIGIN PREFERENCE IN EU PROCUREMENT: A TWO-DIMENSIONAL MAPPING

This section maps the Made in Europe layer along two dimensions. Section 2.1 classifies origin preference by the substantive technique employed, producing four categories (A–D). Section 2.2 classifies it by the type of normative source through which the obligation is imposed, producing three channels (i–iii). Section 2.3 combines the two in a single matrix.

2.1. THE SUBSTANTIVE DIMENSION: FOUR TECHNIQUES OF ORIGIN PREFERENCE

Viewed along the substantive dimension, origin preference in EU procurement operates through four distinct techniques. Each one rests on a different legal theory, raises different questions of compatibility with the EU’s international obligations, and imposes a different type of administrative burden on contracting authorities.

2.1.1. *Category A: supply diversification (concentration caps)*

The first technique does not require European origin. It limits excessive dependence on any single third-country source of supply by imposing negative concentration thresholds. Its legal logic is risk management, not industrial preference: a contract clause requiring that no more than a specified percentage of value originates in any particular third country is source-neutral among third-country origins and is not an EU-origin requirement.

The historical antecedent is Article 85 of Directive 2014/25/EU (the Utilities Directive), which permits contracting entities to reject tenders in which more than 50% of the product value originates in third countries not covered by a reciprocity agreement. This provision, largely dormant for decades, is the direct precursor of the more elaborate diversification mechanisms adopted since 2024.

The principal contemporary instrument is the Net-Zero Industry Act (Regulation 2024/1735). Article 25 requires contracting authorities procuring net-zero technologies to cap the share originating in any single third country at 50% of the value of the procured technology, once that country has come to supply more than half of the EU’s demand for the technology in question. The legal consequence is not rejection of individual tenders but a contractual obligation to diversify.

2.1.2. *Category B: reciprocity and market-access conditionality*

The second technique excludes or penalises economic operators from third countries that do not offer reciprocal access to their own procurement markets. Its legal logic is diplomatic rather than industrial: origin is used as a lever to incentivise third-country liberalisation, and the instrument is designed to be withdrawn once reciprocal access is secured. The underlying legal theory is the principle of symmetry that underpins the GPA architecture itself (Arrowsmith, 2011). The Court of Justice's recognition in *Kolin* that the access of third-country operators without an agreement falls within the EU's exclusive competence under the common commercial policy provides an explicit doctrinal foundation for this category of instruments.

The International Procurement Instrument (Regulation 2022/1031) is the operational expression of this logic. The IPI authorises the Commission, following an investigation, to impose score adjustments or outright exclusion of operators from third countries that restrict EU access to their procurement markets. The first IPI measure entered into force on 30 June 2025, restricting Chinese economic operators from public tenders for medical devices with an estimated value of EUR 5 million or more (European Commission, 2025a). Significantly, the measure combines two distinct techniques: exclusion of Chinese operators (a Category B mechanism) and a requirement that successful tenderers not source more than 50% of medical devices from China (a Category A concentration cap). This cross-category contamination within a single implementing measure illustrates the difficulty of maintaining clean typological boundaries.

The Industrial Accelerator Act proposal of March 2026 contains a separate reciprocity component. Contracting authorities would be required to exclude tenders submitted by economic operators owned or controlled by entities established in third countries that do not benefit from access to the EU public procurement market under an FTA or the GPA. Unlike the IPI, which requires a prior investigation and a Commission implementing act for each measure, the IAA's exclusion mechanism would operate automatically on the basis of agreement coverage, creating a standing exclusion for operators from non-covered jurisdictions. This represents a qualitative shift from case-by-case reciprocity enforcement to structural market segmentation on the basis of treaty status.

2.1.3. *Category C: EU-origin content requirements*

The third technique requires that a specified proportion of a procured good originate in the EU, measured by the EU's non-preferential rules of origin (last substantial transformation). This is the classic local-content requirement, directly in tension with the GPA's non-discrimination obligation under Article IV(1) and with WTO subsidy disciplines (Hestermeyer & Nielsen, 2014). The IAA's provision that content originating in GPA

Parties and FTA partners may be treated as equivalent to EU origin is a legislative acknowledgement of this tension and an attempt to navigate it.

The IAA proposal is the principal instrument in this category. It would impose mandatory EU-origin thresholds for public procurement in strategic sectors, applicable following transitional periods after its entry into force. The thresholds differ substantially across sectors: electric vehicles require, inter alia, EU assembly plus 70% EU-origin components by ex-works price; aluminium requires 25% EU-origin content combined with a low-carbon threshold; steel, by contrast, is subject only to a carbon-intensity requirement without any origin dimension, on the basis that a separately proposed trade measure addressing global overcapacity on the Union steel market makes a European preference for steel unnecessary.

2.1.4. Category D: establishment, control, and production-location requirements

The fourth technique operates not through the origin of the product but through the corporate identity, governance structure or production footprint of the economic operator. The underlying legal theory is strategic autonomy and security of supply. Specifically, the concerns are not where the product was manufactured but who controls the entity that supplies it, where that entity is established, and where it conducts its operations. The technique allows several configurations. It may require that contractors be established in the EU and that their executive management be located within EU territory; that they hold design authority without third-country restrictions; that they not be owned or controlled by entities from non-associated third countries; or, in a company-specific variant, that they not appear on a Commission list of high-risk suppliers assessed on ownership and control grounds. It may also, in sectors with identified supply-chain dependencies, require that a significant proportion of production takes place within the EU.

This technique has its deepest roots in the defence sector, where it is applied at its most stringent. The European Defence Industry Programme (Regulation 2025/2643) and the SAFE Regulation (Regulation 2025/1106), both adopted in 2025, share a common template: beneficiaries must be established in the EU or an associated country, their executive management must be located in those territories, design authority must generally rest there, and components originating outside the EU and associated countries may not exceed 35% of the cost of the end product. The European Defence Industry Reinforcement through Common Procurement Act (EDIRPA) (Regulation 2023/2418) had already established this template, and the European Defence Fund (EDF) (Regulation 2021/697) applies an analogous logic to defence R&D co-funding.

The technique is now extending beyond defence. The proposed revision of the Cybersecurity Act, published in January 2026, would empower the Commission to maintain a list of high-risk ICT suppliers assessed on establishment, ownership and control, whose products would be excluded from procurement for key ICT assets – a company-specific application of the same logic. The Critical Medicines Act proposal (European Commission, 2025b), to which the Council agreed its general approach on 2 December 2025 (Council of the EU, 2025), requires Member State contracting authorities, for critical medicinal products with identified supply-chain vulnerabilities and high dependency on non-EU countries, to apply 'where justified' procurement requirements favouring suppliers that manufacture a significant proportion of those products within the EU. A provisional agreement between the Council and the Parliament was subsequently reached on 12 May 2026.

The Cloud and AI Development Act, proposed on 3 June 2026 under Article 114 TFEU as the centrepiece of the Commission's Tech Sovereignty Package, takes this extension a decisive step further. As proposed, it would convert the cloud-sovereignty requirements applied so far through the administrative channel (Section 2.2.3) into statutory assurance and procurement conditions for cloud and AI services used by EU entities and public sector bodies. Its cloud sovereignty framework comprises four Union assurance levels (Annex II), with the higher levels required only where a risk assessment by Member States and Union entities identifies public sector activities relevant to public order, in the sectors covered by Directive (EU) 2022/2555 and in the areas of national security, internal security, external border management, defence, justice and law enforcement. It also requires contracting authorities to weigh a Union added value criterion in the procurement of cloud and AI services, and it lets private-sector entities in the sectors listed in Annex I to that Directive carry out the same assessments, so its reach is not confined to the public sector (European Commission, 2026f). Whether it is adopted in the form proposed or amended in the legislative process, its choice of a legislative vehicle is what matters for the mapping below. This extension and those above are explicitly qualified by compliance with the EU's international obligations, including the WTO GPA and applicable FTAs.

Table 1 summarises the main features of categories A–D.

Table 1. Substantive techniques of origin preference

Category	Technique	Legal logic	Principal instruments
A. Diversification	Negative concentration caps: no single third country may supply above a specified share of a procured good.	Risk management; source-neutral in design: not an EU-origin requirement.	Art. 85 of Directive 2014/25/EU (historical antecedent); Net-Zero Industry Act, Art. 25.
B. Reciprocity	Exclusion or score penalties for operators from third countries that do not grant comparable access to their own procurement markets.	Symmetry principle underlying the GPA architecture.	IAA proposal: automatic exclusion of operators from jurisdictions without GPA or FTA coverage.
C. EU-origin content	A specified proportion of a procured good must originate in the EU, measured by non-preferential rules of origin.	Local-content requirement.	IAA proposal: sector-specific thresholds applicable following transitional periods after entry into force.
D. Establishment, control, production location	Requirements on the corporate identity, governance structure or production footprint of the operator.	Strategic autonomy and security of supply; the concern is not where the product is made but who controls the entity supplying it.	EDIP, SAFE, EDIRPA and EDF; the proposed Cybersecurity Act review; Critical Medicines Act proposal.

Source: own elaboration. Hybrid instruments (IAA and SAFE) appear in each applicable category.

2.2. THE NORMATIVE-SOURCE DIMENSION: THREE CHANNELS OF RULE CREATION

The mapping above describes what contracting authorities are required to do. It does not, however, capture how those requirements have come into existence. Confining the analysis to regulations and directives adopted under the ordinary legislative procedure would miss a significant portion of the origin-preference architecture now in force or in advanced development. At least two additional normative channels operate alongside legislation, and in some cases anticipate it. The three channels are introduced in order of decreasing formal rank.

2.2.1. Channel (i): regulations and directives

The first and most visible channel is EU legislation adopted under Article 114 TFEU or sectoral legal bases. The instruments discussed in Section 2.1 above – NZIA, IPI, IAA, EDIP, SAFE, EDIRPA and the EDF – all belong to this channel. The defining features are general application, direct effect where applicable, full judicial review before the Court of Justice, and coverage by the remedies regime established under Directive 2007/66/EC where procurement procedures are concerned.

2.2.2. Channel (ii): funding-programme eligibility rules

The second channel operates through eligibility rules attached to EU funding programmes. These rules are set in the base regulation of each programme but operationalised through work programmes, call conditions and implementing arrangements in which the Commission retains significant discretion. The architectural point is that the binding obligation is not located in any single text: it results from the combination of a legislative authorisation and an administrative act.

Horizon Europe illustrates the mechanism. Article 22(5) of Regulation 2021/695 authorises the Commission to limit participation in certain actions to entities established in the EU (or in the EU plus specified non-EU countries) and to restrict entities controlled by ineligible third countries, on strategic autonomy grounds. The concrete exclusions are set by topic in the work programme, most visibly in cybersecurity, quantum technologies and space (European Commission, 2026b). The Strategic Technologies for Europe Platform (STEP) (Regulation 2024/795) adds a coordinating meta-layer: its 'Sovereignty Seal', awarded to projects meeting strategic autonomy criteria across five direct-management programmes, conditions continued funding on the project remaining located in the EU. By early 2026, it had mobilised approximately EUR 29 billion (European Commission, 2026d). The establishment and control requirements of the EDF, EDIRPA and EDIP, discussed in Section 2.1.4, operate in this same channel, as funding-eligibility rules rather than procurement-procedure rules.

2.2.3. Channel (iii): administrative frameworks of contracting authorities and institutional bodies

The third channel operates through administrative frameworks and policies adopted by contracting authorities or by EU institutional bodies within the scope of their discretion, without passing through the ordinary legislative procedure. The framework is not an act of general application, nor a delegated or implementing act, nor a decision addressed to any specific third party. It is a self-binding instrument that the authority or body applies to its own procurement activity. Yet its substantive effect on the operators affected can be indistinguishable from that of a legislative norm.

Commission frameworks

The leading example is the Commission's Cloud Sovereignty Framework, published on 20 October 2025 and applied for the first time in the EUR 180 million 'Sovereign Cloud' tender launched under the Cloud III Dynamic Purchasing System (European Commission, 2025d). The Framework sets out eight sovereignty objectives covering strategic, legal, operational, environmental, supply chain, technological openness, security and compliance dimensions, each assessed on a five-level scale (SEAL-0 to SEAL-4), with SEAL-2 required for eligibility.

Its legal status is that of an administrative methodology, published by DG Informatics as a policy document: neither a regulation nor a directive, nor a delegated or implementing act, nor a decision addressed to any specific addressee. It has nonetheless produced materially the same effect as a Category D rule of general application. The Commission has announced that an updated version will serve as a template for Member States and other EU entities. Its initial operational application on 17 April 2026, analysed in Section 3, provides the first empirical evidence of how the channel resolves the origin-preference trade-off in practice.

The Cloud and AI Development Act proposed on 3 June 2026 signals the intended migration of this logic from the administrative channel to legislation. Its stated aim is to place cloud-sovereignty eligibility on a statutory footing under Article 114 TFEU, subject to full judicial review and to the EU's external commitments. It would replace the Framework's SEAL-0 to SEAL-4 methodology with a statutory system of four Union assurance levels (Annex II). If adopted, it would convert the administrative methodology analysed here into a Category D legislative instrument. The Framework is, in this sense, the administrative precursor of a legislative instrument now before the co-legislators.

Institutional bodies

The European Central Bank provides the clearest institutional example. Its procurement operates under Decision (EU) 2016/245 (ECB/2016/2). Article 30 of that Decision sets a baseline of openness: suppliers established in the Union, in GPA Parties, or in countries with a bilateral procurement agreement with the Union are eligible, and suppliers from other countries may be permitted only at the ECB's discretion (European Central Bank, 2016). Since 2024, however, the ECB has required that, for the procurement of preparation-phase components for the digital euro, and in express deviation from Article 30(1), eligible candidates, tenderers, members of temporary groupings and subcontractors be EU nationals controlled by EU nationals. The framework agreements announced on 2 October 2025 applied this restriction across the five externally procured components of the Digital Euro Service Platform (European Central Bank, 2025b).

The sovereignty logic also spread down through subcontracting layers. Senacor FCS GmbH, the first-ranked provider for the Secure Exchange of Payment Information component, subsequently worked with European cloud infrastructure providers, with OVHcloud announcing in March 2026 that it would provide sovereign cloud infrastructure operated entirely within the EU, and Scaleway having earlier identified itself as one of Senacor’s cloud infrastructure subproviders (OVHcloud, 2026; Scaleway, 2025). The ECB’s closing report describes the outcome in explicit sovereignty terms: ‘all providers are EU nationals controlled by EU nationals’ (European Central Bank, 2025a). Core clearing, settlement and issuance components were, in parallel, retained within the Eurosystem, with six national central banks – Banca d’Italia, Banco de España, Banque de France, Deutsche Bundesbank, Lietuvos bankas and Oesterreichische Nationalbank – selected by the Governing Council on 23 July 2025 to deliver them.

Two observations follow. First, Category D requirements have been imposed on digital euro procurement without any regulation or directive mandating them. The Digital Euro Regulation proposed by the Commission in June 2023 does not prescribe establishment or control criteria; the obligation derives entirely from the ECB’s own policy exercised within the discretion of Decision 2016/245. Second, this policy has been publicly defended in sovereignty terms by the ECB itself (Cipollone, 2026), converting an administrative procurement regime into a substantive instrument of strategic autonomy.

Table 2 summarises the main features of each category.

Table 2. Channels of normative creation

Channel	Source type	Distinctive feature	Leading examples
(i) Legislative acts	Regulations and directives adopted under the ordinary legislative procedure.	General application; fully justiciable.	NZIA, IPI, IAA proposal, SAFE, EDIP, proposed Cybersecurity Act revision, Critical Medicines Act proposal, Cloud and AI Development Act proposal.
(ii) Funding-eligibility rules	Base regulations operationalised through work programmes, call conditions and implementing arrangements.	Binding obligation results from the combination of a legislative authorisation and an administrative act.	Horizon Europe Art. 22(5). STEP Sovereignty Seal. EDF, EDIRPA, EDIP establishment and control requirements.

Channel	Source type	Distinctive feature	Leading examples
(iii) Administrative frameworks	Self-binding frameworks and policies adopted by contracting authorities or by EU institutional bodies within the scope of their discretion.	Substantive effect is indistinguishable from a legislative norm but is administrative in source.	Commission's Cloud Sovereignty Framework. ECB digital euro policy under Decision 2016/245.

Source: own elaboration.

2.3. THE TWO-DIMENSIONAL MAP

The substantive and normative-source dimensions are not independent. Each origin-preference instrument occupies a specific cell of a matrix defined by the combination of one category (A–D) and one channel (i–iii). Table 3 maps the principal instruments identified in Sections 2.1 and 2.2 onto the resulting matrix.

Table 3. Two-dimensional map of the Made in Europe layer

	(i) Legislative acts	(ii) Funding-eligibility rules	(iii) Administrative frameworks
A. Diversification	NZIA Art. 25; Art. 85 Directive 2014/25	–	–
B. Reciprocity	IPI; IAA exclusion rule	–	–
C. EU-origin content	IAA content thresholds	–	–
D. Establishment/control	EDIP, SAFE, EDIRPA; proposed Cybersecurity Act (CSA) revision; Critical Medicines Act (CMA) proposal, Cloud and AI Development Act proposal	Horizon Art. 22(5); STEP Sovereignty Seal; EDF eligibility	Cloud Sovereignty Framework; ECB digital euro policy

Source: own elaboration. Hybrid instruments appear in each applicable cell (the IAA appears under both B and C; SAFE under D).

The pattern visible in Table 3 is the core empirical finding of this mapping. Categories A, B and C operate exclusively through channel (i), legislative acts adopted by the co-legislators. Category D, by contrast, is the only category present across all three channels. This asymmetric distribution is not incidental. It is a structural feature of the current architecture: in the substantive dimension, the expansion of origin preference in EU procurement is concentrated in the establishment-and-control technique (Category D), and in the normative-source dimension, in channels that are less justiciable, less democratically deliberated and less exposed to the EU's international commitments than channel (i). The Cloud and AI Development Act proposed on 3 June 2026 introduces a counter-movement within this pattern. If adopted, it would relocate the cloud-sovereignty strand of Category D from the administrative channel into channel (i), subjecting it to the judicial review and external-commitment exposure that channel (i) entails. The asymmetry documented here therefore describes the architecture as it stands at the time of writing, not a fixed equilibrium.

3. EVALUATING THE MADE IN EUROPE STACK

Section 2 mapped the Made in Europe measures along two dimensions and found that the most expansive technique, Category D, is also the one most widely distributed across channels of weaker judicial review. This section assesses the resulting architecture on three grounds: legal compatibility with the EU's external commitments and the Treaties, economic effects on competition and cost, and administrative coherence in the application of stacked instruments.

Two conceptual distinctions organise the assessment. The first, between Made in Europe and Made with Europe, separates configurations that exclude third-country participation structurally from those that allow it subject to operational safeguards (García Bercero et al., 2026). Category C is archetypally Made in Europe; Categories A and B are compatible with Made with Europe by construction; Category D is the battleground, with SAFE configured as Made in Europe and the Cloud Sovereignty Framework as Made with Europe. The second distinction is between operators genuinely external to the EU and EU-established subsidiaries of third-country parents, the relevance of which Section 3.1 develops on the basis of recent Court of Justice case law.

3.1. LEGAL EVALUATION

The legal assessment of Made in Europe rests on three sources, which together delimit the space within which the measures examined in Section 2 operate. The first is the case law of the Court of Justice on the rights of third-country operators under the 2014 Directives. The second is the EU's external commitments under the GPA and its bilateral FTAs. The third is the internal anchor of primary law, in the Treaties.

The *Kolin-Qingdao* framework. In October 2024, the Grand Chamber ruled in *Kolin* (Case C-652/22) that operators of third countries that have not concluded a procurement agreement with the EU cannot invoke the 2014 Public Procurement Directives, and that access of such operators to Union procurement markets falls within the Union's exclusive competence under the common commercial policy of Article 207 TFEU. *Qingdao* (Case C-266/22, March 2025) confirmed the doctrine, and a non-paper of the Commission of May 2025 extended its application to procurement below the GPA thresholds.

Several consequences arise. First, instruments excluding third-country operators without an agreement, such as the IPI, rest on a confirmed legal base. Second, Member States cannot legislate unilaterally on the access of those operators, whether to permit or to exclude them. Third, and crucially for what follows, *Kolin* does not reach EU-established subsidiaries of third-country parents. Such subsidiaries are EU economic operators under the Directives. Requirements that exclude or penalise them by reference to the

nationality of their ultimate parent operate within the space that the Treaties regulate, not within the space that *Kolin* frees for EU competence.

External exposure. The EU's external commitments rest on the same non-discrimination principle that the Directives operationalise internally. The GPA imposes Article IV(1) most-favoured-nation and national treatment obligations on covered procurement above agreed thresholds (SDR 130 000 for central government supplies and services; SDR 5 million for construction). The procurement chapters of the EU's bilateral FTAs with the UK, Japan, Canada, Korea and others extend or modulate those commitments. These agreements bind the institutions and the Member States as EU law under Article 216(2) TFEU.

The substantive categories developed in Section 2.1 face materially different exposure under this regime. Category A (diversification) is weakly exposed because concentration caps apply symmetrically to all third-country origins. Category B (reciprocity) is endogenous to the GPA architecture and is permitted by it. Category C (EU-origin content) is the archetypal local-content requirement and is directly in tension with Article IV(1); the IAA's treatment of GPA Parties and FTA partners as equivalent to EU origin is a legislative acknowledgement of that exposure. Category D (establishment, control, and production location) is variable: the Article III security exception covers defence-related applications subject to the Russia–Traffic in Transit threshold of ‘an emergency in international relations’. But applications outside defence – such as the Cloud Sovereignty Framework, the Cloud and AI Development Act, the ECB digital euro policy or the Critical Medicines Act – cannot rely on Article III and face meaningful exposure.

Internal anchor. Subsidiaries established in a Member State benefit from the fundamental freedoms regardless of the nationality of their ultimate parent, and these freedoms condition any EU legislation that affects them. Article 49 TFEU guarantees freedom of establishment for companies formed under the law of a Member State and having their registered office, central administration or principal place of business within the EU. Article 56 TFEU guarantees free movement of services on the same connecting factor. Article 63 TFEU on free movement of capital is the most consequential: it applies *erga omnes*, covering capital movements between Member States and third countries, and the Court of Justice has used it to constrain restrictions on foreign ownership in its golden shares jurisprudence. Article 18 TFEU prohibits discrimination on grounds of nationality within the scope of the Treaties. Article 3(3) TEU sets the establishment of a single market as an objective of the EU. Altogether, these provisions condition the exercise of legislative competence. Secondary legislation, including any revision of the 2014 Directives and any Made in Europe instrument adopted within or alongside it, must respect them.

The internal exposure of Category D. The principal legal vulnerability of Made in Europe lies in the interaction between Category D requirements and the fundamental freedoms. When SAFE excludes from EU financing companies controlled by third-country parents, when the ECB excludes from the digital euro suppliers controlled by non-EU shareholders, or when the Cloud Sovereignty Framework awards lower SEAL ratings to subsidiaries with non-EU technology partners, the legal subjects affected are predominantly EU economic operators. The differentiation operates within the single market, not against it.

Article 63 TFEU on the free movement of capital is the most directly engaged: a requirement that conditions the participation of an EU-established operator on the absence of third-country control restricts the freedom of capital movement, both between Member States and between Member States and third countries. Such a restriction is lawful only if justified by an overriding reason of public interest, proportionate, and applied in a non-discriminatory way. Strategic autonomy and security of supply may, in principle, qualify as such reasons in the case law of the Court of Justice, but they require concrete evidentiary support and a proportionality assessment that none of the existing instruments has explicitly conducted.

The channel dimension. The legal exposure varies not only with the substantive technique but also with the channel through which it is imposed. A regulation can be challenged as such, in an action under Article 263 TFEU. A third-country complainant can raise GPA-based objections through the dispute settlement mechanism. An administrative framework applied through award criteria in individual tenders is more naturally challenged on an as-applied basis, which raises standing and burden-of-proof obstacles for complainants from outside the EU. Funding-eligibility rules attached to programmes generally fall outside the GPA's subject-matter scope, but their interaction with the Treaties remains.

The Remedies Directive, which provides the procedural backbone of judicial protection in procurement, may not apply when the substantive obligation derives from a sectoral instrument outside the 2014 Directives, leaving suppliers excluded by the combined effect of several measures with an uncertain route to challenge. The asymmetric concentration of Category D in the administrative channel and in the institutional procurement policies of EU bodies, documented in Section 2.3, therefore generates an asymmetric reduction in legal accountability that is itself a coherence problem.

3.2. ECONOMIC AND OPERATIONAL EVALUATION

Made in Europe configurations have not been in force long enough to generate a direct empirical record. This evaluation combines three sources: international literature on local-content requirements in comparable jurisdictions, empirical evidence on the relationship between competition and procurement prices in EU markets, and the first operational applications of Made in Europe-adjacent instruments in EU procurement.

Direct cost. The international literature on local-content requirements documents cost premia that can be expected to transfer to Made in Europe configurations operating through the same mechanism. Hufbauer et al. (2013) find cost premia of 15–50% across sectors, with a central tendency of 20–30%. US metro cars procured under Buy America rules are 34% more expensive than foreign benchmarks (American Action Forum, 2017). IT procurement under Build America, Buy America generates premia of at least 25% against high-wage benchmarks (ITIF, 2022). Stone, Messent and Flaig (2015) and Flaig and Stone (2017) add that the premium is concentrated in sectors with high scale economies and steep learning curves – precisely the sectors prioritised under the IAA and the Cloud Sovereignty Framework. The mechanism is direct: the pool of eligible suppliers is restricted, competition is reduced, and the discipline of foreign price points is removed.

Reduced competition. EU-specific evidence on the link between competition and procurement prices reinforces the inference. Matilla-García and Vega (2025) analyse 600 000 Spanish procurement awards between 2012 and 2017 and find that each additional bidder reduces the procurement price by 2.1%. They also find that the use of open procedures reduces prices by 9.9% relative to less competitive procedures. The European Court of Auditors documents that the share of single-bidder tenders in the EU rose from 23.5% in 2011 to 41.8% in 2021, while the average number of bids per tender fell from 5.7 to 3.2 (European Court of Auditors, 2023). The OECD estimates that lack of competition in public procurement raises costs by 20–30% (OECD, 2022).

Made in Europe configurations operate through this same mechanism in a couple of compounding ways. They restrict the pool of eligible suppliers *ex ante* by excluding non-EU or non-EU-controlled operators, and they raise compliance costs *ex post* by introducing additional verification requirements that depress entry by smaller and foreign suppliers. The combined effect is to push procurement markets that already display competition deficits towards even fewer effective bidders.

Operational feasibility. Another aspect is whether Made in Europe configurations are feasible at the technological frontier. Two cases already provide evidence. The first operational application of the Cloud Sovereignty Framework, discussed in Section 3 above, yielded no awardee at SEAL-4: three fully European consortia reached SEAL-3,

while a consortium relying on a Thales-Google joint venture was admitted at the SEAL-2 minimum, on the basis that non-EU technology can satisfy the minimum sovereignty requirement when operated within a sufficiently controlled EU framework. SAFE, despite its 65%–35% component rule, has had to accommodate third-country participation beyond 35% through Security and Defence Partnership agreements, upgrading Japan, South Korea and Canada in its first year of operation. It has done so on the basis that the EU's defence industrial base cannot deliver the full capability envelope autonomously within the timeframes that Member States require. The point generalises. In sectors where EU producers are not at the technological frontier, a Made in Europe requirement is either not binding, because procurement targets lower-tier goods, or operationally softened through derogations and partnership arrangements.

3.3. STACKING AND ADMINISTRATIVE COHERENCE

A single tender can fall within the scope of multiple instruments at once. A Commission procurement of cloud services co-financed under STEP engages a number of Category D requirements simultaneously: the STEP Sovereignty Seal, the Cloud Sovereignty Framework, and, once enacted, the Cloud and AI Development Act proposed on 3 June 2026. A procurement of medical devices subject to an IPI implementing measure and financed through EU4Health also engages various categories at once: reciprocity exclusion, a concentration cap, and funding conditionality. These are not isolated cases. They are the normal operation of Made in Europe as currently configured.

The stacking generates incoherence in three respects. Definitions diverge: EU origin is defined one way by the Union Customs Code, eligible-country establishment another way programme by programme, and permissible third-country ownership a further way instrument by instrument. A single supplier can qualify under one definition and fail under another in the same tender. Objectives diverge: reciprocity, diversification, industrial preference and security of supply pull in different directions, and stacked on the same tender they produce outcomes that no single instrument was designed to achieve. Remedies diverge: challenges against an NZIA concentration clause, an IPI exclusion, a SEAL assessment under the Cloud Sovereignty Framework or an establishment requirement under a work programme rest on different legal bases and offer different standing and remedies, as Section 3.1 set out.

Fragmentation operates within instruments as well as across them. The IAA applies three different tests to three different products: an origin test for aluminium combined with a low-carbon threshold, an assembly-plus-component test for electric vehicles, and a carbon-intensity requirement without any origin dimension for steel. A contracting authority procuring materials for a single infrastructure project can apply all three under the same regulation.

The administrative burden follows directly. A contracting authority applying the full stack must conduct four distinct assessments per tender: diversification, reciprocity, content origin, and establishment and control. Each requires different evidence, including supplier declarations, beneficial-ownership disclosure, legal analysis under the EU's FTA network, and market data not routinely available. The EU has more than 250 000 contracting authorities of widely varying capacity; smaller authorities will under-enforce or apply the tests formulaically. SMEs, which win 71% of EU procurement contracts by number but only 33% by value (European Commission, 2023a), cannot absorb the documentation cost.

Institutional coordination at the EU level mirrors the fragmentation at the contracting authority level. DG DIGIT designs the Cloud Sovereignty Framework, DG GROW prepares the IAA, DG SANTE prepares the Critical Medicines Act, DG DEFIS prepares EDIP and SAFE, DG TRADE manages the IPI, and the ECB runs its own procurement policy. Each actor resolves its own choices within its own domain. The aggregate has no author.

The findings of the preceding subsections can be summarised by category. Table 4 presents the assessment under the three aspects of evaluation.

Table 4. Summary of the assessment by category

Category	Legal exposure	Economic effect	Administrative burden
A. Diversification	Weak. Source-neutral by design; concentration caps apply symmetrically across third-country origins.	Moderate. Restricts the supplier pool <i>ex ante</i> by capping any single origin; effect concentrated in markets with limited alternative suppliers.	Moderate. Requires market-share data on third-country supply not routinely available to contracting authorities.
B. Reciprocity	Limited. Endogenous to the GPA architecture and confirmed by <i>Kolin</i> as falling within the EU's exclusive competence under Article 207 TFEU.	Moderate. Excludes non-covered operators from procurement they could otherwise contest; designed to be withdrawn upon reciprocal access.	High when applied case by case (IPI investigations); lower when a standing exclusion based on agreement coverage (IAA proposal).
C. EU-origin content	High. Archetypal local-content requirement directly in tension with Article IV(1) GPA;	High. Cost premia of 20–30% documented in comparable regimes; concentrated in sectors	High. Requires verification under non-preferential rules of origin, supplier

Category	Legal exposure	Economic effect	Administrative burden
	equivalence treatment for GPA Parties and FTA partners is a partial mitigation.	with high scale economies and steep learning curves.	declarations, and case-by-case origin tests for products with multi-stage value chains.
D. Establishment, control, production location	Variable. Defence applications covered by GPA Article III subject to the Russia–Traffic in Transit threshold; non-defence applications face meaningful exposure under both the GPA and Article 63 TFEU, with subsidiaries of third-country parents protected by the fundamental freedoms.	Variable. Cost premia comparable to Category C in sectors at the technological frontier; operational infeasibility in cases where EU producers are not at the frontier (Cloud Sovereignty Framework, SAFE–Security and Defence Partnership arrangements).	High. Requires beneficial-ownership disclosure, legal analysis of corporate structure, and assessment of governance and design-authority criteria.

Source: own elaboration based on Sections 3.1, 3.2 and 3.3.

The asymmetry of Category D is visible in each of the columns. Its legal exposure is the most variable and the most dependent on the fundamental freedoms. Its economic effect is contingent on the position of EU producers in the value chain. And its administrative burden is the heaviest among the categories. The combination, distributed asymmetrically across all the normative channels as Table 3 documented, is the structural feature that the principles in Section 4 address.

4. IMPLICATIONS FOR THE DESIGN OF ORIGIN-PREFERENCE INSTRUMENTS

The findings of Section 3 carry implications that go beyond any single legislative reform. The Made in Europe instruments examined in this analysis sit in sectoral legislation, in funding-eligibility rules, in administrative frameworks and in institutional procurement policies. Any future instrument in this family is likely to follow the same dispersion. The implications below are formulated as principles that should govern the design and review of any such instrument, regardless of the legal vehicle through which it is adopted. They derive directly from the legal, economic and administrative findings of Section 3 and do not depend on the Public Procurement Act or on any other specific reform.

Differentiation by ultimate parent must be justified under primary law. Instruments that exclude or penalise EU-established subsidiaries based on the nationality of their ultimate parent operate within the space that the fundamental freedoms regulate, not in the space that *Kolin* frees for EU competence. As Section 3.1 set out, Article 63 TFEU is the most directly engaged. Any such instrument should articulate its justification as an overriding reason of public interest, demonstrate proportionality, and apply it in a non-discriminatory way. The current generation of instruments invokes strategic autonomy or security of supply without conducting this assessment explicitly. The default should be reversed: the burden of proof falls on the instrument, not on the affected operator.

External compatibility must be demonstrated, not presumed. Instruments that affect operators of GPA Parties or of FTA partners engage in commitments that bind the institutions and the Member States as EU law under Article 216(2) TFEU. Section 3.1 elucidated that the four substantive categories face materially different exposure: Category C is in direct tension with Article IV(1) GPA, and Category D (outside defence) cannot rely on Article III. Compatibility should be articulated in the legislative or administrative act itself, including, where defence applications are claimed, an explicit assessment against the Russia–Traffic in Transit threshold of ‘an emergency in international relations’. The current practice of treating GPA Parties and FTA partners as equivalent to EU origin in some instruments and not in others is incoherent.

Substantive obligations must have procedural correlates. Obligations whose substantive effect is equivalent to a generally applicable norm should be matched by review procedures of equivalent scope. As pointed out in Section 3.1, the Remedies Directive may not apply when the substantive obligation derives from a sectoral instrument outside the 2014 Directives. And Article 263 TFEU standing is narrower than the procedural protections that procurement law has historically offered. The principle is structural: any Made in Europe instrument should be accompanied by an articulation of

the review avenues available against decisions taken under it, with explicit standing rules for affected operators including those established outside the EU.

Operational mitigation should be preferred to structural exclusion. Where the policy objectives of an instrument (security, strategic autonomy, or supply chain resilience) can be achieved through Made with Europe configurations that allow third-country participation subject to operational safeguards, those configurations should be preferred to Made in Europe configurations that exclude such participation structurally. As Section 3.2 laid out, structural exclusion imposes systematic cost premia, reduces competition in markets that already display competition deficits, and can be operationally infeasible at the technological frontier. The Cloud Sovereignty Framework's SEAL scale and SAFE's accommodation of Security and Defence Partnership countries illustrate that operational mitigation is feasible. The burden of proof should fall on instruments that structurally exclude, not on those that conditionally permit.

Coherence across instruments must be a design objective, not an externality. As Section 3.3 outlined, contracting authorities can apply four distinct assessments to a single tender, drawing on definitions and review avenues that diverge across instruments. The EU's institutional architecture currently produces this fragmentation by default: each directorate-general resolves its own choices within its own domain. Coherence requires several concrete elements: harmonisation of definitions across instruments (EU origin, eligible-country establishment and permissible third-country control); coordination among instruments applied to the same procurement; and review mechanisms that take cumulative effects into account, not only those of each instrument taken in isolation.

The five principles do not prescribe a particular balance between openness and strategic autonomy. They articulate the conditions that any such balance must satisfy if it is to be lawful under the Treaties, compatible with the EU's external commitments, economically defensible, and administratively coherent.

Table 5 summarises the five principles, the legal or empirical anchor from which each is derived, and the practical implication for any Made in Europe instrument.

Table 5. Five principles for the design and review of Made in Europe instruments

	Principle	Anchor	Practical implication
1	Differentiation by ultimate parent must be justified under primary law.	Article 63 TFEU; Court of Justice case law on golden shares; <i>Kolin</i> (subsidiaries remain EU economic operators).	Any instrument affecting EU-established subsidiaries must articulate an overriding reason of public interest, demonstrate proportionality, and apply non-discriminatorily.
2	External compatibility must be demonstrated, not presumed.	Article 216(2) TFEU; GPA Article IV(1) and Article III; bilateral FTAs.	Compatibility should be articulated in the act itself; defence applications require explicit assessment against the Russia–Traffic in Transit threshold.
3	Substantive obligations must have procedural correlates.	Remedies Directive; Article 263 TFEU; GPA Article XVIII review-procedures obligation.	Each instrument should specify the review avenues available against decisions taken under it, with explicit standing rules including for operators outside the EU.
4	Operational mitigation should be preferred to structural exclusion.	Empirical evidence on cost premia and competition; operational feasibility evidence from the Cloud Sovereignty Framework and SAFE–Security and Defence Partnership.	Made with Europe configurations should be the default; the burden of proof falls on instruments that structurally exclude.
5	Coherence across instruments must be a design objective.	Article 3(3) TEU on the unity of the internal market; stacking analysis in Section 3.3.	Three concrete aspects: harmonisation of definitions, coordination among instruments applying to the same procurement, and review mechanisms that take cumulative effects into account.

Source: own elaboration.

5. CONCLUSIONS

The European Union has spent the past four years building, instrument by instrument, a body of law that conditions access to public contracts and to the funding linked to them on EU origin, control or production. This body of law has not been designed. It has emerged. Each piece responds to a specific concern, defended on its own terms by its own author, and few of those who have shaped it have had occasion to ask how the pieces fit together or against what standards the whole should be measured.

This analysis has offered the beginnings of an answer. The Made in Europe instruments have been organised into a systematic taxonomy with two dimensions. The taxonomy reveals an asymmetry that is not visible from within any single instrument: the most expansive technique, requirements on the establishment and control of operators, is also the technique most often imposed through channels of weaker judicial review and democratic deliberation. The architecture is not the product of a single decision. It is the aggregate of decisions taken in isolation, each defensible on its own terms, none designed to fit with the others.

Three findings frame the assessment. The 2014 Directives leave space for origin-based differentiation against operators of third countries that have not concluded a procurement agreement with the EU. The Court of Justice has confirmed in *Kolin* and *Qingdao* that this space falls within the EU's exclusive competence. But the Treaties do not leave the same space when the differentiation reaches EU-established subsidiaries of third-country parents, which remain EU economic operators and are protected by the fundamental freedoms regardless of where their ultimate parent sits. The EU's external commitments under the GPA and the FTAs bind the institutions and the Member States as EU law and constrain how the space can be filled. Finally, the economic evidence on origin preference, drawn from comparable regimes and from the empirical literature on competition in EU procurement markets, points consistently to systematic cost premia and to the operational infeasibility of structural exclusion at the technological frontier.

From these findings the analysis has derived five principles. They are formulated at a level of abstraction that does not depend on any specific reform, because the architecture of Made in Europe does not depend on any specific reform. The principles will outlast the revision of the 2014 procurement framework envisaged in the Commission's 2026 Work Programme, and they will apply to instruments not yet drafted. They articulate the conditions that any configuration of origin preference in EU procurement must satisfy if it is to be lawful, compatible with the EU's external commitments, economically defensible, and administratively coherent.

The choice between openness and strategic autonomy is a political question that this analysis has deliberately not answered. Reasonable people can disagree on where the balance should lie, and the EU's institutions are entitled to strike it differently in different sectors and at different times. What the analysis has argued is that whichever balance is struck, it should be struck consciously rather than emerge as the residue of decisions taken without coordination. The Made in Europe instruments are doing important work in pursuit of legitimate objectives. The case for designing them well, against shared standards, with awareness of how they interact with one another and with the EU's constitutional and international commitments, is independent of the case for or against their substantive content.

The European Union has long argued, in its own external trade policy and in its support for the multilateral system, that procurement markets are more efficient when they are open and that openness is more durable when it is grounded in shared rules rather than imposed unilaterally. These arguments do not lose force when applied internally. If the EU is to build a coherent architecture of origin preference, it should build one that respects the principles it has long defended abroad: clarity of rules, justification of exceptions, equivalence of treatment for partners offering reciprocal access, and accountability through procedural review. The principles set out in Section 4 are the minimum conditions for such an architecture. They are also, in the end, the same principles on which the single market itself was built.

REFERENCES

American Action Forum (2017). 'The Cost of "Buy American" for Government Procurement'.

Anderson, R. D. and A. Müller (2017). 'The Revised WTO Agreement on Government Procurement (GPA): Key Design Features and Significance for Global Trade and Development', *Georgetown Journal of International Law*, 48(4), 1135–1185.

Arrowsmith, S. (2011). *Government Procurement in the WTO*. The Hague: Kluwer Law International.

Cipollone, P. (2026). Speech on digital euro and procurement sovereignty.

Council of the EU (2025). 'Critical medicines act: Council agrees its position on new rules to tackle shortages', press release, 2 December 2025.

Court of Justice of the European Union, judgment of 26 September 2019, *Vitali SpA v Autostrade per l'Italia SpA*, Case C-63/18, EU:C:2019:787.

Court of Justice of the European Union, judgment of 21 December 2023, *Infraestruturas de Portugal SA and Futrifer Indústrias Ferroviárias SA v Toscca - Equipamentos em Madeira Lda*, Case C-66/22, EU:C:2023:1016.

Court of Justice of the European Union, judgment of 22 October 2024, *Kolin İnşaat Turizm Sanayi ve Ticaret AŞ v Državna komisija za kontrolu postupaka javne nabave*, Case C-652/22, EU:C:2024:910.

Court of Justice of the European Union, judgment of 13 March 2025, *Qingdao*, Case C-266/22.

Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (Remedies Directive).

Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.

Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors.

European Central Bank (2016). Decision (EU) 2016/245 of the European Central Bank of 9 February 2016 laying down the rules on procurement (ECB/2016/2).

European Central Bank (2025a). 'ECB selects digital euro service providers', news, 2 October 2025 (updated 15 October 2025). Available at: <https://www.ecb.europa.eu/press/intro/news/html/ecb.mipnews251002.en.html>

European Central Bank (2025b). 'ECB announces framework agreements for the digital euro Service Platform', press release, 2 October 2025.

European Commission (2023a). 'Evaluation of the impact of the public procurement Directives', SWD(2023).

European Commission (2024a). Communication on guidance for the application of the European Chips Act provisions on first-of-a-kind facilities, OJ C/2024/4911, 20 August 2024.

European Commission (2024b). 'Commission decides to refer Spain to the Court of Justice for incorrect transposition of the public procurement Directives', press release, December 2024.

European Commission (2025a). Implementing Regulation (EU) 2025/1197 of 19 June 2025 imposing measures on access of Chinese economic operators to EU public procurement of medical devices, in force 30 June 2025.

European Commission (2025b). Proposal for a Regulation establishing the Critical Medicines Act, COM(2025) 102 final, March 2025.

European Commission (2025d). 'Cloud Sovereignty Framework', published 20 October 2025.

European Commission (2026a). 'Award decision: Sovereign Cloud tender under Cloud III Dynamic Purchasing System', 17 April 2026.

European Commission (2026b). 'Horizon Europe Work Programme 2026', participation restrictions in cybersecurity, quantum technologies and space.

European Commission (2026c). Proposal for a Regulation establishing the Industrial Accelerator Act, March 2026.

European Commission (2026d). 'Strategic Technologies for Europe Platform: implementation report', early 2026.

European Commission (2026e). Proposed revision of the Cybersecurity Act, January 2026.

European Commission (2026f). Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's cloud and AI ecosystem (Cloud and AI Development Act), COM(2026) 502 final, 3 June 2026.

European Court of Auditors (2023). Public procurement in the EU: Less competition for contracts awarded for works, goods and services in the 10 years up to 2021, Special Report 28/2023.

European Parliament Research Service (2025). Briefing on the forthcoming Cloud and AI Development Act.

Flaig, D. and Stone, S. (2017). 'Local Content Requirements Versus Tariff Equivalents: How We Measure Matters', *The World Economy*, 40(5), 931–948

García Bercero, I., Mathieu Collin, A., McWilliams, B., Poitiers, N. and Tagliapietra, S. (2026). '"Made with Europe" not "Made in Europe" should guide EU industrial policy', *Bruegel First Glance*, 10 February, Brussels.

Hestermeyer, H. P. and Nielsen, L. (2014). 'The Legality of Local Content Measures under WTO Law', *Journal of World Trade*, 48(3), 553–591.

Hufbauer, G. C., Schott, J. J., Cimino-Isaacs, C., Vieiro, M. and Wada, E. (2013). *Local Content Requirements: A Global Problem*. Washington, DC: Peterson Institute for International Economics.

Information Technology and Innovation Foundation (2022). 'How "Buy American" Can Hurt U.S. Manufacturers'.

Matilla-García, M. and Vega, P. (2025). 'An empirical analysis of the impacts of competition on procurement costs', *Applied Economics*, 57(40), 6258–6273.

OECD (2022). *Government at a Glance 2022*. Paris: OECD Publishing.

OVHcloud (2026). *Sovereign cloud infrastructure for the digital euro Service Platform*, company announcement, March 2026.

Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation.

Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund.

Regulation (EU) 2022/1031 of the European Parliament and of the Council of 23 June 2022 on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets (International Procurement Instrument).

Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act).

Regulation (EU) 2023/2418 of the European Parliament and of the Council of 18 October 2023 on establishing an instrument for the reinforcement of the European defence industry through common procurement (EDIRPA).

Regulation (EU) 2024/795 of the European Parliament and of the Council of 29 February 2024 establishing the Strategic Technologies for Europe Platform (STEP).

Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem (Net-Zero Industry Act).

Regulation (EU) 2025/1106 establishing the Security Action for Europe (SAFE) instrument, OJ L, 27 May 2025.

Regulation (EU) 2025/2643 of 16 December 2025 establishing the European Defence Industry Programme (EDIP).

Sánchez Graells, A. (2024). 'Discretionary exclusion grounds in EU public procurement: from Vossloh Laeis to Infraestruturas de Portugal', *European Procurement & Public Private Partnership Law Review*, 19(2).

Scaleway (2025). *Cloud infrastructure subprovider for the digital euro preparation phase*, company statement, 2025.

Stone, S., Messent, J. and Flaig, D. (2015). 'Emerging Policy Issues: Localisation Barriers to Trade', *OECD Trade Policy Papers No. 180*, OECD Publishing, Paris.

WTO Panel Report, *Russia – Measures concerning Traffic in Transit*, WT/DS512/R, adopted 5 April 2019.



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