



European Metals Position Paper on the Public Procurement Act

Introduction

European Metals, the European non-ferrous metals association, calls for a Public Procurement Act (PPA) that will deliver on its objectives of strengthening Europe's industrial competitiveness, resilience and security of supply while simplifying procurement procedures. Specifically, it is essential to make the rules more coherent across EU countries and ensure a harmonised EU procurement framework.

We support the creation of a single portal for all procurement in the EU and the ambition to make it a strategic tool for strengthening Europe's industrial competitiveness. However, this should be achieved with stronger provisions that protect EU industry against supply-chain disruptions and harmful dependencies, as well as allowing European preferences in strategically important procurement.

We therefore make the following key recommendations that are necessary for a successful public procurement framework.

Key Recommendations

- 1. Ensure strong provisions for the European preference**
- 2. Ensure strict provisions to determine the origin of goods**
- 3. Make public procurement rules mandatory based on minimum environmental requirements and non-price criteria**

1. Ensure strong provisions for the European preference

Chapter 5 on the European preference needs further clarification. The proposal provides for access to EU public procurement for economic operators from a broad range of third countries covered by the EU's international commitments. Under Article 70, this includes operators originating in third countries that are parties to the WTO Agreement on



Government Procurement (GPA), such as Hong Kong (China), as well as third countries with which the EU has concluded bilateral or multilateral trade agreements or customs union agreements.

This broad approach risks diluting the policy objective of enhancing Europe's strategic autonomy and the industrial base. The European preferences should be limited to the European Union, the European Economic Area (EEA), the UK and EFTA countries, as well as a shorter list of trusted trade partners that have a transparent public procurement framework with effective reciprocity and comparable environmental and climate standards. This is in line with how the government procurement segment of the Industrial Accelerator Act (IAA) should also be developed. Indeed, it is crucial that both these legislative initiatives are tightened to improve European preference in public procurement.

Opening certain EU public procurement markets to GPA countries may increase competitive pressure on EU producers and could, in some cases, influence the location of production. In the same way, particular attention should be given to sectors already facing overcapacity in third countries (i.e. aluminium, refining of battery materials such as cobalt, nickel) and the risks that can be created by including all the Free Trade Agreements' (FTAs) partners, especially where they do not have a reciprocal approach to public procurement.

In this context, we call for rethinking the exclusion approach and implementing an opt-in approach. Under such a system, preferential treatment would be granted only to a clearly defined group of trusted partners meeting criteria related to reciprocity and comparable environmental and climate standards. Trusted partners should also apply a comparable carbon pricing framework to ensure a level playing field between European and non-European producers. This is the position we express in the IAA, and we believe these two Acts should be aligned with the interest of Europe rather than our trading partners at its heart.

A certain degree of consistency should be maintained between the PPA and the IAA, especially in terms of objectives.

2. Ensure strict provisions to determine the origin of goods.

Article 73(2) of the proposal provides that the origin of goods is to be determined in accordance with Article 60 of the Union Customs Code, which establishes the EU's non-preferential rules of origin.



However, relying on these rules may raise concerns that the origin criteria do not sufficiently reflect where the most economically and strategically important stages of production take place, particularly where goods undergo processing or transformation across several countries.

These rules of origin are indeed too flexible and easy to circumvent through minimal processing operations in the Union or in third countries. The excessive emphasis on final transformation steps does not adequately reflect the strategic importance of EU-produced raw materials.

Particular consideration should be given to copper, which is indispensable for the energy transition, and other strategic raw materials. The origin of such materials and semi-finished products should reflect the location of key value-adding steps, including extraction, refining and semi-finished products manufacturing. This is necessary to ensure consistency with the Critical Raw Materials Act and the Union's strategic autonomy objectives.

Additionally, the origin of aluminium and aluminium semi-finished products should be determined based on the country of smelting (electrolysis) and the country of last casting. Regarding secondary production, given that scrap markets are more geographically localised than markets for aluminium products or primary aluminium, the origin of the scrap used as an input material should be determined by reference to the country in which the scrap underwent remelting (recycling).

These proposed rules are also insufficient for certain metal-based battery components, since simple operations (e.g. mixing, final calcination) can qualify as EU origin. These components should qualify as originating in Europe only if a key manufacturing step has to take place in the EU.

3. Include mandatory public procurement rules based on minimum environmental and non-price criteria

Europe is recognised for maintaining some of the world's highest environmental and social standards. Public procurement should build on Europe's high environmental standards and other non-price criteria, and use public spending to further advance sustainability and social responsibility.

This would help stimulate sufficient demand across both public and private procurement for more sustainable goods that respect human rights, uphold labour rights, and promote responsible business conduct throughout the entire value chain.



To ensure the effectiveness and consistent application of the proposed framework, the relevant public procurement provisions should be mandatory for public buyers and supported by effective safeguards against circumvention at all stages of the procurement process. Broad exemptions could create loopholes, incentivise circumvention, and undermine the objectives of the legislation. In addition, to prevent carbon leakage, equivalent sustainability criteria should apply to both domestically sourced and imported goods procured for public sector use.

Moreover, minimum environmental requirements must be based on clear definitions and robust life-cycle assessment (LCA). This would capture a product's environmental impacts from raw material extraction through end-of-life. These requirements should be complemented by proportionate due diligence obligations addressing social and human rights risks across the value chain.

To fully support the strategic objectives of the Public Procurement Act, further consideration should be given to how the provisions on abnormally low tenders can address market distortions in those sectors affected by structural overcapacity. While the introduction of explicit benchmarks is a positive development, the framework should also require bidders to demonstrate not only compliance with applicable environmental, social and strategic requirements, but also that low prices are not achieved at the expense of those objectives.

Contact:

Mr Carmine CARINCI, International Trade & Responsible Supply Chain Policy Manager | carinci@european-metals.eu | +32 493 19 20 08

Dr James WATSON, Director General | watson@european-metals.eu | +32 497 581 368

European Metals

European Metals is an umbrella association representing the interests of the combined non-ferrous metals industry towards EU policymakers. We bring together the companies and associations shaping Europe's non-ferrous metals ecosystem: from upstream mining and refining to downstream use and high-quality recycling. By connecting technical expertise with policy action, we ensure that the importance of the metals sector is recognised, valued, and that our sector's future is secured. For more information, visit our website: <https://european-metals.eu/>