Cefic views on EU preference criteria in demand creation policies

The chemical sector is the backbone of Europe's industrial transformation. Cefic calls for effective demand-side policies to support the transition to low-carbon and circular products and ensure fair access to clean products market opportunities for EU producers. With global competitors already deploying local content rules, Europe should consider a similar move, following a balanced and targeted approach to complement other demand creation tools: align incentives with sustainability goals, respect trade rules, and tailor criteria to complex value chains. EU preference, where appropriate, needs to act as a catalyst - not a constraint - for innovation, resilience, and competitiveness.

The chemical sector as "industry of industries" is involved in almost all key industrial value chains, and is vital for Europe's resilience, climate-neutrality and circularity ambitions. In view of the significant challenges the sector is facing, which threaten its global competitiveness, decisive policy action is expected. In particular, urgent supportive measures are needed to foster uptake of EU low-carbon and circular products and drive industry transformation, both increasing competitiveness, helping secure strategic production capacities in Europe, and reducing emission intensity.

Cefic's key principles and policy priorities on market pull measures highlight that demand incentives creating new market opportunities for "clean products" are necessary and should ensure a fair market share for EU producers along value chains. We see two main reasons why special attention needs to be paid to enabling this fair share, including by assessing where and how to introduce local content requirements, e.g. under public procurement, State Aid, the Industrial Decarbonisation Accelerator Act (IDAA), in selected value chains.:

(1) There is a need to secure temporary and targeted support for EU industry during the transition to low-carbon and circular production to allow for the establishment of competitive economies of scale in Europe.
(2) As long as climate ambitions are not fully aligned on a global level, EU industries face higher costs than other jurisdictions when investing in more climate-friendly technologies.

This adds to the general challenge that production, also for low-carbon and circular products, can be cheaper where energy and feedstock costs are more favourable

Many of the EU's competing regions have implemented widespread local content requirements. A recent Strategic Perspectives analysis found 983 such policies in the US, including in Inflation Reduction Act tax incentives, 315 in Brazil, such as local content conditions in public loans, 315 in India, and various discreet policies in China, e.g. "Buy Chinese" targets for state companies. There are indications that the European Commission is considering similar initiatives, including EU preference[1] and/or resilience criteria, in the

[1] Also referred to as minimum EU content, EU preference, or local content requirements.

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2024-2029 Political Guidelines, the Clean Industrial Deal, the Industrial Decarbonisation Accelerator Act Public Consultation, the Net Zero Industry Act and sectoral action plans.

We support a careful and policy-specific evaluation of whether 'produce/invest in EU' policies or resilience criteria would be helpful to support the business case for the chemical industry to invest in Europe. Therefore, we recognise a clear link between sustainability criteria and potential EU content criteria.

When evaluating the introduction of EU preference criteria, including for the Industrial Decarbonisation Accelerator Act (IDAA), we recommend the Commission consider the following key aspects:

1. Criteria for public vs. private procurement

A difference needs to be made between criteria defining how public money is spent and criteria on how private companies have to spend their money. EU preference criteria for private procurement that force private companies to buy local content to place products on the market would be more intrusive and challenging to align with international trade rules. Certain exemptions may apply, e.g. in relation to national security. On the other hand, linking EU, national, or local financial incentives (such as offtaker tax breaks/subsidies) or public procurement to a reasonable minimum share of European content in the final product could in principle incentivise local production without excluding products from the market. Conditionalities attached by governments to taxpayers' money can be justifiable as long as international commitments are respected. Similar approaches are implemented in other market economies, such as the US, and also certain EU Member States, including Spain, France, Italy and Croatia, who already use local / EU content requirements in tenders or financial support schemes (in particular for renewable energy projects).

2. Criteria need to be justified

Any EU preference criteria should be clearly and transparently justified. We are sceptical regarding applying EU preference as a goal on its own as such criteria would not be needed at all if Europe was competitive or if there was a true global level playing field. However, incentives for local content could be applied for a transitional period until the market takes over, or for specific strategic objectives, such as security, resilience, or climate policy.

In combination with sustainability requirements, different considerations motivate the evaluation of EU content / resilience policies, such as the increased costs connected to higher EU climate ambitions compared to other jurisdictions (e.g. higher OPEX costs for circular feedstock or Carbon Capture and Storage), the need to build and scale up new industries ("infant industry" or "catch-up logic"), as well as a distorted level playing field due to state support for industries elsewhere. All these developments to a certain extent could justify deviating from adhering to our general principle of applying global solutions to address global challenges. However, more supportive industrial and energy policies (e.g. regarding free ETS allowances or supportive Market Pull Measures) would in principle reduce the need for such policies.

3. Choosing the most appropriate criteria

While EU preference criteria can be useful to drive market demand, alternative or complementary policies and criteria could be considered: For example climate and circularity legislation can act as a market driver, and other possible market pull tools are listed in our respective position paper. Alternative criteria can include targeted qualitative ones (e.g. innovation, durability, supply stability…), resilience, social dimensions (e.g. adherence to key ILO conventions), or environmental aspects.

4. Compatibility with partnerships and diversification

In times of geopolitical tensions, deepening existing trade relations with trusted partners gains renewed importance. Supporting EU industry and strengthening these ties must go hand-in-hand. Therefore, rather than implementing a "strict" EU preference, it would be beneficial to include specific partner countries in such policies. One option is to include Free Trade Agreement (FTA/EPA)[2] partners as eligible to procure. Such policies could simultaneously make it more attractive to conclude an agreement with the EU, supporting our negotiations, and may contribute to building alliance and supporting a global approach. For public procurement, the WTO Agreement on Government Procurement, in which 22 parties (including the EU, the US, the UK, Canada, Japan and South Korea) agreed to mutually open procurement markets, can define the scope[3]. To avoid unnecessary frictions with partners, the definition of criteria e.g. for resilience should be aligned as much as possible with countries following similar considerations. Worth noting, Japan is currently seeking dialogue with like-minded countries on their own criteria for demand policies.

Considering that much of global trade is still based on the WTO framework and seeing current challenges to international rule of law, WTO defendability of measures is an important consideration to take into account.

5. Key considerations for an impact assessment

We recommend a careful impact assessment is conducted before EU content or similar criteria are implemented. This is also important in view of the need to balance policy goals. The assessment should in particular consider the following aspects:

- Finding an appropriate way of defining value chain inclusive criteria is crucial - e.g. drawing inspiration from Rules of Origin in FTAs and/or setting requirements for specific production steps/components in final products. Effective criteria need to provide incentives throughout value chains, rather than only incentivise EU production at the level of the final product. The implementation, however, comes with challenges such as choosing the "starting" points in different value chains that could be necessary for a final product, tracking origin, etc. Flexibility will be needed to allow for certain production steps taking place out of the EU, temporarily or continuously, e.g. if EU installations for the respective step in the value chain do not exist or plants in the EU are temporarily closed for maintenance.
- Paying respect to the specificities and complexities of value chains, including the number of different components incorporated in a final product. In a car, for example, chemical value added comes from a broad range of parts including e.g. plastics, textiles, coatings, sealants, rubber, catalytic converters…

[2] In certain cases, e.g. where there is a clear link of the criteria to (critical) raw materials policy, partners with which the EU has signed raw materials partnerships / Clean Tarde and Investment Partnerships may also be considered.
[3] The already existing options to promote reciprocity under the EU's International Procurement Instrument should further be taken into account.

- Balancing benefits with additional costs, e.g. related to traceability requirements and compliance as well as administrative expenses that such criteria create (including for separate storage of EU-originating materials).
- Considering effects on existing supply chains and downstream sectors. This would include socio-economic impact assessments of the effects that criteria for base materials and intermediates have on the competitiveness of European downstream producers and that criteria on final products have on European upstream suppliers.
- Avoiding to trigger supply monopolisation or significant trade-offs with other EU goals (e.g. resilience, climate transformation).

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About Cefic
Cefic, the European Chemical Industry Council, is the forum of large, medium and small chemical companies across Europe, accounting for 1.2 million jobs and 13% of world chemicals production.
On behalf of its members, Cefic's experts share industry insights and trends, and offer views and input to the EU agenda. Cefic also provides members with services, like guidance and trainings on regulatory and technical matters, while also contributing to the advancement of scientific knowledge.