On the Way to the Industrial Accelerator Act

Changing Faces of EU Industrial Policy

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After months of delays, internal frictions, leaks, and sensational claims that EU industrial policy is going "full China", the long-anticipated proposal for an Industrial Accelerator Act (IAA) is expected in early March. The IAA represents a continuation and deepening of the Commission's new industrial policy, distancing itself from a deeply entrenched constitutional imaginary in which the economy was governed primarily through rules designed to enable and protect competitive coordination.

This shift is reflected, first and foremost, in its legal bases. Not unlike the recent Critical Raw Materials and the Net-Zero Industry Acts, the IAA is anchored primarily in Article 114 TFEU. Acknowledging the operative weakness of 173 TFEU, which precludes harmonization measures for industrial policy, the new industrial policy has unfolded through the progressive instrumentalisation of other constitutional bases – most importantly 114 TFEU, with industrial production recoded as a condition of market functioning and strategic capacity-building measures framed as internal-market harmonisation. At the same time, the IAA proposal expressly relies on Article 207 TFEU to recalibrate trade and economic security, enabling the Union to thicken the boundary conditions of the internal market. This produces a hybrid legal architecture that mobilises internal market governance and external commercial policy to steer and safeguard strategic value chains and strengthen productive capacity within the Union.

The constitutional implication is subtle but far-reaching. Industrial steering is no longer framed as a deviation from the competitive order or as a temporary crisis response, but as a structural condition for preserving the internal market's resilience, security of supply, and productive capacity. Market integration thus no longer primarily disciplines industrial ambition; rather, industrial governance becomes the mechanism through which integration itself is to be sustained under conditions of geopolitical rivalry, subsidy competition, and decarbonisation pressure.

The Two Pillars of New Industrial Policy

The institutional architecture of the turn to new industrial policy is built around two conceptual pillars.

The first is an instrumental approach to markets, aimed at steering, shaping, and generating markets that produce outcomes prefigured by political authority. This approach has manifested in the CRMA and NZIA primarily through supply-side reforms that expand and incentivize industrial capacity and lower investment risk for clean technologies, the procurement and processing of critical raw materials, and the decarbonization of energy-intensive industries, while enhancing a broadly understood notion of economic security. The IAA further purports to create "lead markets" by redesigning the demand side through minimum Union-origin requirements for procurement and subsidies. This emerging regulatory regime of "market instrumentalism" contrasts with a long-standing paradigm of economic liberalism defined by the commitment to the competitive order, a broad understanding of market freedoms, rigid state aid control, and a liberal framework for international trade. On a deeper level, the market instrumentalism of industrial policy casts off the agnosticism about "value" that defined the liberal-competitive paradigm, according to which value could only be discovered and derived through market-mediated competition. Industrial policy instead posits a politically determined conception of value that precedes and reshapes the market and the competitive order.

The second pillar is a reconfiguration of the state–capital nexus intended to sustain this instrumentalism and the pursuit of strategic objectives, captured in the strategic role assigned to *"derisking"*. The IAA extends an EU industrial strategy that relies on public guarantees and financial backstopping to mobilise private investment in key sectors, actively securing private profitability without disciplining private actors to pursue the strategic objectives when these are at odds with profit calculations. As critics have pointed out, such institutional design does not subordinate investment decisions to collectively defined priorities but instead shifts part of the risk associated with strategic investments from the private sector to the public, opening new frontiers for capital accumulation through the expanded use of blended finance and risk-sharing instruments, the growing role of the European Investment Bank, the increasing use of Power Purchase Agreements, and related mechanisms. The strategy of derisking highlights how, beyond the aspirations of green growth, resilience, and economic security, the contemporary turn to industrial policy represents a strategic repositioning of public power. Derisking, in this sense, is best understood as an effort to stabilize accumulation under conditions of 'secular stagnation', characterized by declining profitability, weak investment, and slow growth.

Boundary-Setting and Territorial Embeddedness

Market instrumentalism requires "boundary-setting": the attempt to stabilize the effects of public steering by conditioning access, limiting external contestation, and thickening territorial embeddedness within the Union's economic space. Indeed, the leaked IAA proposal does not limit itself to seeking to create "lead markets" but it also develops techniques for ensuring that those lead markets cannot be immediately arbitraged away through global overcapacity, import substitution, or corporate mobility.

A first modality of boundary-setting lies in the re-politicisation of public demand through minimum Union-origin and low-carbon requirements. Public procurement is recast as a strategic lever of economic security and industrial policy and an integral component of an emerging industrial strategy oriented toward rebuilding production ecosystems and anchoring value creation within the Union.

A second modality is the conditionalisation of access to the Single Market in response to third-country restrictions on critical raw materials. Here, the draft sketches a retaliatory-resilience mechanism: where a third country imposes measures that generate shortages or threats of shortages, the Commission may require undertakings from that country to make an in-kind contribution as a condition for placing covered goods on the Union market (i.e., depositing specified quantities of critical raw materials at Union stockpiling centres).

The most far-reaching boundary setting, however, sits in the chapter on foreign investment. This is where the draft moves from shaping demand to shaping ownership and control, and from encouraging territorial embeddedness to structurally constraining exit options and capital mobility. For foreign direct investments in emerging key strategic sectors above a EUR 100 million threshold, implementation is prohibited unless explicitly approved by a national Investment Authority or the Commission. What follows is not classic screening but an attempt at a harmonised investment constitution for strategic sectors: a 49% cap on foreign ownership or control, a joint venture requirement with EU-domestic entities, and operational conditionalities tied to technology, R&D, labour, and input composition.

Three features matter conceptually. First, the joint-venture logic is structural, ensuring "sufficient participation of Union partners" and measurable "value added to the Single Market." Corporate form becomes an instrument of industrial policy, embedding cooperation and partial EU control into the legal architecture of permissible investment. Second, the technology-transfer dimension is unusually explicit: approval is conditioned on licensing intellectual property and sharing know-how with detailed provisions on ownership of IP developed domestically or jointly. Third, investment legitimacy is tied to ongoing territorial embeddedness through performance thresholds: commitments to R&D spending within the Union,

workforce composition requirements, and minimum Union-manufactured input shares in products placed on the market.

Taken together, these provisions recast foreign investment as a potentially distortive market intervention that must be reshaped to serve strategic value creation. The Investment Authority becomes a market-gating institution, policing the terms under which capital may enter, operate, and extract value. This is why the political controversy around "Made in Europe" reflects a deeper constitutional wager. The wager is that the Union can stabilise its emerging industrial strategy by combining demand-side European preference with investment-side conditionality, thereby anchoring production, rebuilding manufacturing capacity, and narrowing the pathways through which global capital can treat the internal market as a space of frictionless arbitrage.

The Contestation of New Industrial Policy

The provisions of the IAA remain susceptible to the critique that the EU prioritizes its own economic security and accumulation processes while simultaneously constraining the policy space of other countries wanting to do the same. Not only has the EU consistently criticized similar industrial policy designs adopted by China, but it has also used newly concluded Free Trade Agreements as an opportunity to block policy instruments typically associated with state-led industrialisation – such as import and export monopolies, dual-pricing schemes, and performance requirements – while adapting its own trade defence practice to impose anti-dumping and countervailing duties on downstream imports from countries that promote domestic processing of upstream raw materials.

At the same time, despite the forthcoming aspirations of a more politically-controlled and steered investment environment, the IAA does not break with but in many ways fortifies the *market instrumentalism-derisking* dualism. In the absence of direct public investment or public control over financial flows, the IAA relies on incentivised and publicly guaranteed private investment –through procurement and support schemes, alongside financial guarantees. In this sense, the IAA functions as a mechanism for the absorption of risk and uncertainty, ensuring private profitability.

Yet, the IAA also reinforces a broader trend toward the politicisation of economic priorities, departing from a long-standing paradigm of economic regulation characterised by deference to market coordination and global capital mobility. In particular, the IAA pursues strategic value creation through far-reaching conditionalities, monitoring obligations, and potential penalties for foreign investment that promote deeper territorial embeddedness, making corporate exit – and its associated leverage – more difficult. This is why, according to commentators, the FDI provisions are projected to "face a lot of opposition from free traders and multinationals".

The postponement of the IAA's adoption by the Commission highlights the political sensitivity of the proposal. The apparent controversy over the "Made-in-Europe" provisions and resistance from industry stakeholders shows that the boundary-setting logic underpinning the Act is already contested. Concerns about market closure, price effects, administrative burden, and compatibility with openness point to a deeper distributive conflict over how far EU industrial policy may reshape market access and investment conditions. The delay thus reflects the concrete political confrontation generated by the emerging industrial strategy: whether strategic objectives can be embedded in law without reshaping the internal market settlement on which the Union's market order has long depended.

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