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The Implementation Council
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Ministry of Climate and Enterprise
Division for Enterprise, Innovation and Markets

Basis for Sweden's position ahead of EU negotiations – Proposal for a Regulation establishing a framework of measures for strengthening the Union innovation ecosystem and amending Regulation (EU) 2017/1001 (European Innovation Act, EIA)

The Swedish Implementation Council's contribution to the Swedish position is presented in full in section 9. In summary, the Council recommends that the Government should:

- ensure consistency with related legislation to avoid uncertainty and regulatory overlap;
- ensure that the regulation of R&D procurement takes into account the specific nature and conditions of the companies concerned, particularly regarding requirements for market consultations;
- support the proposal for an increased use of functional requirements in R&D procurement;
- advocate for quality and innovation criteria to be designed with sufficient flexibility to accommodate different types of procurement;
- ensure that the multiple sourcing system and competitive development in phases do not result in disproportionate costs or administrative burdens for businesses;
- work to ensure that provisions and exemptions intended to facilitate the participation of small and medium-sized enterprises (SMEs) are effective in practice;
- be restrictive in the introduction of rules about European preference;
- safeguard the rules on intellectual property rights;
- advocate for the proposed competence centre to be clearly designed and user-friendly; and
- promote provisions requiring the legislative act to be evaluated regularly and more frequently than every five years.

STATENS OFFENTLIGA UTREDNINGAR

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1. Task of the Implementation Council

The Implementation Council is tasked with assisting the Government in the work of strengthening the competitiveness of Swedish companies by avoiding implementation above the minimum level and counteracting unjustified regulatory burdens as well as reducing administrative costs and other compliance costs in connection with the implementation of EU regulations in Swedish law. The Implementation Council's work shall be based on a business perspective.

The Implementation Council is to submit documentation and recommendations to the Government, partly as a contribution to Swedish positions in negotiations and partly on how EU legal acts can be implemented in Swedish law in a way that is not more far-reaching from a business perspective than what the legal acts require.

The Implementation Council's work is based on problem descriptions that have been communicated to the Council, mainly from industry organisations and their member companies. During the work on the documentation, contacts are also made with others who are familiar with the respective subject area, such as government agencies. On the basis of the information obtained, the Council makes a balanced and independent assessment of how the business perspective can be met in an appropriate manner in each individual case.

In preparing this opinion, the Council has mainly used information and documentation received in contacts with Almega, the Federation of Swedish Entrepreneurs, Rise, SISP, the Confederation of Swedish Enterprise, The Technology Industries of Sweden, Vinnova and the National Agency for Public Procurement.

2. Relevant proposal for an EU legal act

Proposal for a regulation of the European Parliament and of the Council establishing a framework of measures for strengthening the Union innovation ecosystem and amending Regulation (EU) 2017/1001 (European Innovation Act).

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3. Objectives and purpose of the proposal

The European Innovation Act (EIA) proposed by the European Commission is a key initiative within the EU's start-up and scale-up strategy and the Competitiveness Compass[1]. Its overarching objective is to strengthen innovation in the Single Market by reducing barriers to the development of innovative solutions and thereby accelerating their commercialization across the EU. To achieve this, the proposal seeks to enhance the role of public procurement as a driver of innovation while also improving the valuation, commercialization, and use of intellectual property rights. The EIA aims to help innovative ideas develop, secure financing, and scale up within the EU so that they can compete effectively in global markets. The Commission proposes a common framework for the public procurement of research and development (R&D), which is expected to increase legal certainty and help bring new innovations to market more quickly. It would also facilitate the joint procurement of R&D by public procurers from different Member States. In addition, access to finance for innovative companies is to be improved through a common EU framework for the valuation of intellectual property rights, as well as a digital marketplace designed to match buyers and sellers of intellectual property assets.

4. Where in the process is the proposal?

The proposal was presented on 9 September 2026 and will be negotiated under the ordinary legislative procedure.

5. Responsible Swedish ministry

Ministry of Climate and Enterprise.

6. The proposal from a Swedish business perspective

Stakeholders consulted by the Swedish Better Regulation Council in the preparation of this opinion generally welcome the European Commission's ambition to make it easier, through a common European framework, to transform R&D into commercially scalable innovations and businesses within the Single Market. At the same time, some stakeholders question whether the initiatives covered by the EIA are sufficient to address the

[1] EU Startup and Scaleup Strategy - Research and innovation and Competitiveness compass - European Commission

broader challenges facing the EU in the fields of innovation and the Single Market.

Many stakeholders emphasize in particular that private investment capital is essential if the EU is to fully achieve its competitiveness objectives in this area. However, even when companies succeed in obtaining financing, additional obstacles to scaling up within the EU remain and are not fully addressed by this legislative proposal. For businesses, the ability to rapidly access multiple markets and customers is crucial for growth. Yet within the EU, companies often face fragmented regulatory frameworks, differing national requirements, and administrative barriers. As a result, many companies choose to relocate or seek capital and customers in markets outside the EU, where the conditions for scaling up are perceived to be more favorable.

Harmonized EU rules in the field of R&D are one way of addressing these challenges. However, some stakeholders argue that the proposal itself, and the new rules it introduces, may hinder the flexibility that innovative companies need in their early stages and may make it more difficult and time-consuming for them to bring their products and services to market. Another point raised to the Council concerns the importance of establishing a clear link within the proposal and providing a clear explanation of how the solutions covered by the EIA can subsequently be commercialized and deployed on a larger scale.

The following sections present more specific comments and potential concerns related to the proposal that various stakeholders have brought to the Council's attention.

New procurement rules to strengthen research and development

The EIA introduces common EU rules specifically governing R&D procurement. These include provisions on pre-commercial procurement, a distinct EU model of R&D procurement based on a dedicated procedure involving competing suppliers and multiple development phases. The proposal would establish new harmonized and transparent rules aimed at increasing legal certainty and facilitating cross-border R&D procurement by public authorities, including joint procurements conducted together with public authorities in other Member States. The EIA is also intended to make it easier for innovative companies to participate in such procurement

processes. At the same time, stakeholders have pointed out that the regulatory framework introduces stringent requirements and a slower procurement process, which may become less attractive, or even discouraging, for the small, agile, and innovative companies that the initiative is intended to support.

Related legislation

The stakeholders consulted by the Council are generally positive about the EIA proposals intended to complement and improve procurement in the field of research and development. However, they emphasize the importance of clearly delineating the EIA from other procurement legislation, particularly in relation to the European Commission's proposal to revise the EU public procurement framework. The Council has submitted an opinion ahead of the negotiation of the new public procurement framework[2], in which it highlights, among other things, the challenges posed by extensive and overlapping legislation. Such overlap can make the regulatory landscape more difficult to navigate and interpret, while also increasing the administrative burden on companies wishing to participate in public procurement procedures. It is therefore important that the two proposals complement one another and do not create uncertainty regarding when and how they should be applied.

In addition to the review of the general public procurement framework, there are links to several other Commission initiatives, including the proposed IAA, CADA and EU Inc. [3], particularly with regard to European preference, strategic technologies, digital systems, and companies' access to financing. It is important that definitions and administrative procedures are coordinated in order to avoid parallel or conflicting requirements.

Market consultations

Several stakeholders report that contracting authorities are currently generally reluctant to carry out market consultations and market dialogues at an early stage of procurement procedures. The EIA stipulates that market consultations must take place prior to R&D procurement. Such consultations can be a valuable tool for increasing the contracting authority's

[2] See the Implementation Council's opinion, *Basis for Swedish position ahead of EU negotiations – proposal for revision of the EU's procurement regulations*. The-Swedish-Implementation-Council-position-on-Public-Procurement-Act-1.pdf

[3] Industrial Accelerator Act COM(2026)100, Cloud and AI Development Act COM(2026) 502, EU Inc. COM(2026) 321

understanding of market conditions while also giving small businesses better opportunities to provide input on the design of the procurement process. This view is supported by the Council's opinion on the revision of the EU public procurement rules. However, several stakeholders emphasize the importance of designing these processes in a way that does not impose burdensome documentation requirements or extend the time and resources required from businesses, particularly small firms for which every additional step entails a cost. There is also an inherent challenge in requiring market consultations prior to the procurement of novel solutions for which a market has not yet emerged. Consequently, some stakeholders view the requirement for market consultations before the procurement of R&D services as potentially restricting rather than enabling.

Functional requirements

A recurring concern raised with the Council is that extensive and highly detailed specifications can limit innovative solutions and reduce the participation of innovative suppliers in public procurement. Under the proposal, technical specifications must follow a clear order of priority, whereby requirements should, as a general rule, be formulated first in terms of functional requirements, followed by performance requirements, and only as a last resort by means of design specifications. This approach can provide suppliers with greater scope to propose alternative solutions, thereby encouraging more innovative, better-suited, and more cost-effective bids. It is particularly beneficial for small and medium-sized enterprises (SMEs), which are often better able to compete through specialized expertise, innovative solutions, and new business models.

Quality criteria

The stakeholders consulted by the Implementation Council welcome the increased focus on quality but note that fixed requirements for quality and innovation expressed as percentages may lead to less predictable procurement processes for businesses. It is therefore important that the quality and innovation criteria are designed in a clear and transparent manner, enabling companies to understand what is being assessed and how the evaluation will be conducted. The criteria should also not impose a disproportionate administrative burden on businesses in demonstrating compliance. At the same time, some stakeholders have pointed out that overly prescriptive requirements regarding the weighting of criteria could limit flexibility and reduce the ability to tailor evaluation criteria to the specific objectives of a given procurement procedure.

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The multiple source system and competitive development in phases

Several stakeholders emphasize the importance of designing the provisions on multiple source systems and phased competition in a way that does not impose disproportionate costs or administrative burdens on businesses. Under the proposal, R&D procurement should, as a general rule, be conducted using multiple suppliers and a phased competitive process. These provisions have the potential to increase efficiency and foster more innovative solutions by allowing several companies to compete in parallel. At the same time, it is important that the number of phases, documentation requirements, and participating suppliers remain proportionate to the value and risk of the contract. Some stakeholders also believe that companies participating in the procurement process should be compensated for the costs incurred as a result of their participation.

Specific provisions related to SMEs

SMEs, innovative start-ups, and innovative scale-ups often face higher barriers to participation in public procurement than larger, established companies. The EIA contains several provisions and exemptions aimed at reducing these barriers and facilitating the participation of such businesses. Among other measures, the proposal limits the ability of contracting authorities to require prior experience from previous contracts as a condition for participation. It also allows companies to use business plans, intellectual property, and various forms of financing to demonstrate compliance with minimum requirements concerning their economic and financial standing. In addition, the proposal stipulates that certain guarantees required from tenderers should be reduced by half for SMEs, innovative start-ups, and innovative scale-ups. As the Council has consistently emphasized in its opinion on the EU public procurement framework[4], it is of utmost importance that these exemptions lead to genuine simplification for SMEs in practice.

European preference

Several stakeholders express uncertainty and scepticism about the initiatives being discussed within the EU to reduce the Union's dependencies on third countries and strengthen European competitiveness. The Council has perceived the same hesitation in its work on previous supporting documents, such as those prepared in response to the proposals on the IAA and on the

[4] The Implementation council's statement, The-Swedish-Implementation-Council-position-on-Public-Procurement-Act-1.pdf

revision of the EU's public procurement rules[5]. Overall, there is a desire from the business community for restraint with regard to different types of Union preference, as in many cases it will be both more complicated and more expensive than operating in a completely open market. In order to achieve a desirable result of Union preference at all, the stakeholders believe that all such cases must be preceded by a thorough assessment of proportionality to ensure that the cost does not exceed the benefit.[6]

With regard to the EIA, the proposal introduces rules under which participation in procurement procedures would, as a general rule, be limited to EU companies and companies from certain partner countries. In addition, at least 50 percent of the R&D activities must be carried out in those countries, subject to certain exceptions where competition is insufficient or the costs would be disproportionate. A recurring concern raised with the Council is that different forms of European preference may impose significant administrative requirements on companies wishing to participate in public procurement. These may include requirements relating to origin assessments, verification of ownership structures, and confirmation of where research, development, or production activities have taken place. Particularly affected may be globally integrated companies and research infrastructures that depend on highly specialized segments of international value chains that are difficult to replace or that require access to international expertise. This is often the case, for example, in the sector of life science.

Another concern communicated to the Council relates to the proposed provision allowing participation in a procurement procedure to be restricted, on security grounds, to EU-based entities that are not controlled by a non-EU country. The proposal lacks a clear definition of what constitutes "control," creating a risk that companies could be excluded from procurement opportunities because of their ownership structure. This could include situations where foreign investors are minority shareholders hold specific rights, such as board representation or veto rights in certain matters.

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[5] See the Implementation Council's opinions, *Basis for Sweden's position ahead of EU negotiations – proposal for revision of the EU procurement regulations*. The Implementation Council's opinion on the EU's revision of the procurement regulations and *Basis for Sweden's position for the upcoming EU negotiations – announced proposal for a regulation on accelerated decarbonisation/emissions in industry (IDAA).* The Implementation Council's opinion on the regulation on accelerated decarbonisation/emissions in industry

[6] See also the Confederation of Swedish Enterprise's report, *European Preference and Competitiveness under the Industrial Accelerator Act*. European Preference and Competitiveness under the Industrial Accelerator Act

Intellectual Property Rights

Europe is strong when it comes to R&D but has been less successful in translating research results into successful and globally competitive companies. The value of innovative companies consists mostly of intangible assets, such as patents, software and technology. These assets often play a crucial role for companies but are also often difficult to value. It can therefore be challenging for companies to use them as a basis for attracting external financing. Unlike many other EU countries, Sweden has well-functioning innovation infrastructures that provide companies with support throughout the commercialisation process, including through the development of business models and IP strategies, as well as by mediating contacts with specialist expertise, investors and other financiers. However, a common European framework can strengthen this work and make it easier for Swedish companies to convert intangible assets into capital. The stakeholders that the Council has spoken to are generally positive about what is proposed to strengthen property rights.

Ownership

In public procurement, it is not uncommon for suppliers to be required to transfer ownership of solutions developed under a contract to the contracting authority. Stakeholders consulted by the Council argue that this practice leads many innovative companies to refrain from participating in procurement procedures altogether. In some cases, companies may also withhold their most innovative solutions due to concerns about losing their intellectual property rights. This undermines the purpose of innovation procurement and limits the opportunities for bringing new and innovative solutions and products to market for the benefit of society as a whole.

The proposal establishes that ownership of intellectual assets should, as a general rule, remain with the supplier. This principle, whereby suppliers retain ownership of solutions developed through procurement procedures, is regarded as a positive and important improvement introduced by the proposal. However, several stakeholders point out that the Commission's proposal contains exceptions allowing contracting authorities, in certain circumstances, to acquire ownership rights. Some stakeholders argue that these exceptions introduce complexity that may discourage suppliers from participating. They contend that the exemption provisions could have been narrower and more clearly defined in order to provide stronger protection for companies' ownership rights.

A new competence center

The EIA proposes the establishment of a Competence Centre within the European Union Intellectual Property Office (EUIPO). The Competence Centre would provide a voluntary framework for the valuation, financing, and commercialization of intellectual property rights. This initiative is generally viewed positively, although some concerns have been raised regarding its functioning and potential consequences. There is a risk that it could become yet another administratively burdensome system that companies must navigate. It is therefore essential that the Competence Centre is designed in a way that is user-friendly and accessible for businesses. Stakeholders have also emphasized the importance of clearly establishing the voluntary nature of the framework so as not to restrict investment activity more broadly. For example, if the framework were to be perceived in practice as the standard or preferred method for valuing intellectual property, it could create uncertainty regarding alternative valuation approaches and potentially discourage their use.

Regulatory sandboxes

The proposal itself does not include any provisions on regulatory sandboxes. However, the Commission has proposed a Council recommendation[7] on this. Several stakeholders consulted by the Implementation Council view regulatory sandboxes positively, considering them an important mechanism for testing and developing innovations in a "protected" environment. Such environments are seen as crucial for the commercialization of innovative solutions, particularly in sectors such as life science. Sweden is often highlighted as a frontrunner with a well-functioning innovation infrastructure that could serve as a model for the rest of the EU. Greater harmonization of regulatory sandboxes across the EU would, according to stakeholders, strengthen and enhance companies' opportunities for innovation. Against this background, several stakeholders would have preferred regulatory sandboxes to be included as part of the proposal itself. Some also argue that the Recommendation now in place could serve as a stepping stone toward future harmonization in this area.

[7] Proposal for a Council Recommendation on common principles on regulatory sandboxes to support innovation and a future

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7. Implementation Council's Analysis

The Implementation Council has made an overall analysis of how the EIA proposal may affect Swedish companies.

Industries and companies concerned

The EIA is a cross-sectoral initiative and is not directed at specific industries or companies. Rather, it broadly targets entities that participate in public-sector R&D procurement or make use of intellectual property rights. At the same time, the proposal is primarily intended to address structural barriers that affect innovation-intensive activities more generally, such as fragmented regulatory frameworks, uneven access to infrastructure, obstacles to scaling businesses across national borders, and legal uncertainty surrounding innovative business models. Consequently, the regulatory framework is likely to have the greatest impact on industries and companies that are affected by these types of barriers. This includes, among others, knowledge-intensive manufacturing, digital and deep-tech activities, clean and climate technologies, health and life science, and other R&D- and capital-intensive sectors.[8]

Consequences for Swedish companies

The part of the EIA concerning R&D procurement currently affects only a very limited share of the Swedish public procurement market, accounting for approximately 0.3 percent of all procurement notices published in 2025. A total of 56 procurements related to R&D activities were advertised in 2025, representing a clear increase from 32 notices in 2024.[9] It should be noted, however, that not all R&D procurement is reflected in these statistics, as such procurements do not always fall within the scope of public procurement legislation and therefore may not be subject to publication requirements. Consequently, the figures may underestimate the actual volume of R&D procurement taking place in Sweden, particularly in the case of pre-commercial procurement or smaller pilot projects.[10]

There is potential for the EIA to increase the use of R&D procurement. The proposed rules may create better conditions and stronger incentives for the public sector to demand R&D services, thereby promoting innovative

[8] See p.137 European Commission Impact Assessment Report

[9] See Almost 430 innovation procurements in 2025 | National Agency for Public Procurement

[10] See Tips on pre-commercial procurement | National Agency for Public Procurement

solutions and strengthening the market for such goods and services. This is particularly relevant given that Sweden, like the EU as a whole, has a strong research and innovation base while at the same time facing challenges in scaling up and commercializing innovations. The ultimate impact, however, will depend heavily on developments on both the demand and supply sides of the market.

In the Council's consultations with relevant stakeholders, it has emerged that SMEs currently participate only to a limited extent in certain forms of R&D procurement, such as pre-commercial procurement, and that relatively few new entrants are joining these markets. If the EIA succeeds in lowering barriers to participation, the legislative act could improve opportunities for smaller and newly established innovative companies to engage with the public sector. However, if other obstacles to SME participation remain, the overall effect may be limited, even if the procurement procedures themselves become simpler or faster.

Intellectual Property Rights

The European Commission's impact assessment highlights a 2022 study[11] by Bracht's and Czarnitzki, which shows that the use of patents as collateral increases companies' access to bank financing[12]. According to the study, Swedish companies that pledge patents as collateral experience approximately 21 percent higher borrowing capacity, corresponding to an additional SEK 11.5-16 million per company compared with situations where patents are not used as security.

At the societal level, the full utilization of patent-backed lending is estimated to unlock more than SEK 150 billion in additional credit for Swedish businesses. Consequently, if designed effectively, the proposal could enable Swedish companies to realize a substantial untapped financing potential through clearer valuation standards, a functioning secondary market for intellectual assets, and improved access to capital.

[11] Mentioned in the Commission's impact assessment p.47 EUR-Lex - 52026SC0567 - EN - EUR-Lex. Full study by Bracht and Czarnitzki (2022) see DP 22-033

[12] The study examines exclusively debt financing (debt) among companies in a broad sense and does not include venture capital or the use of equity.

The Commission's report[13] on intellectual property rights in connection with the proposed revision of the EU public procurement framework, published alongside the EIA, shows that the design of intellectual property provisions affects both companies' ability to participate in public procurement and their willingness to submit bids.[14] The report supports the concerns communicated to the Council and helps explain why the companies concerned generally view the EIA's proposals on ownership rights as positive.

Administrative burdens

Like the stakeholders that the Implementation Council has been in contact with, the Council assesses that EIA may to some extent lead to increased administrative costs.

There is a significant risk of a cumulative regulatory burden if the EIA becomes a parallel framework with its own definitions and digital systems, instead of interacting with other current initiatives such as the Public Procurement Act, CADA, IAA and EU Inc.[15] As these EU legal acts are under negotiation, coherence and interoperability must be ensured on an ongoing basis. Alternatively, consideration should be given to awaiting the outcome of these processes in order to guarantee a synchronized legislative framework that avoids burdensome ambiguities and regulatory overlap.

Furthermore, the provisions relating to market consultations and European preferences may generate additional administrative burdens. Documentation requirements associated with market consultations must be proportionate so as not to consume excessive business resources. Provisions on European preference may be particularly problematic because of the administrative effort required to demonstrate the "correct" origin of products or services, as well as the challenges arising from vague definitions and unclear boundaries in the applicable rules.

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[13] See Commission report, *Intellectual Property in Public Procurement Country comparisons and impact on companies,* Intellectual property in public procurement - Publications Office of the EU

[14] In the survey, approximately 50 percent of respondents stated that clauses requiring the transfer of intellectual property rights (IPR) limit their ability to reuse previously developed knowledge, experience, and solutions. Furthermore, around 40 percent considered such clauses to hamper innovation and business development, while just over 30 percent reported that they refrain from using the most appropriate technical tools as a result.

[15] See footnote 3.

Costs for companies

The proposal may give rise to costs for businesses, particularly in relation to the proposed competence centre. It remains unclear whether the new model and certification framework for the valuation of intellectual property rights will be costly, especially for SMEs, which already face challenges in financing the basic patenting of their innovations. For example, if businesses are required to rely on external consultants to navigate the competence centre and its procedures, this would represent an additional cost rather than an efficiency gain. It is therefore important to ensure that the benefits provided by the Competence Centre are proportionate to any costs incurred in using it.

Participating in extensive procurement procedures can also be highly resource intensive. Stakeholders emphasize the importance of safeguarding the proposed right of companies to receive financial compensation if they participate in a procurement process but are not selected to proceed to the next phase. They also stress that the number of competing suppliers should remain proportionate to the value of the procurement. This consideration is particularly important for SMEs.

Other consequences

The requirements of the EIA regarding origin assessments, verification of ownership and control of the geographical location of the work risk creating increased documentation requirements and legal uncertainty. The Implementation Council has noted in previous opinions[16] that European preference requirements risk increasing administrative costs for companies while limiting access to talents, capital, technology and established products from non-EU suppliers. There are also concerns that the requirements may affect companies' opportunities to participate in and benefit from international research and innovation infrastructures that are crucial to them. This in turn could lead to reduced competition in procurement, higher costs for public actors and fewer innovative solutions. Small and start-up companies in particular could be negatively affected, as they often have limited resources to deal with additional documentation and compliance requirements. For companies in sectors such as the life science, these requirements could be especially problematic because access to world-leading global infrastructure, which is not always available within the EU, is essential to their activities. European preference also risks increasing

[16] See footnote 5.

suppliers' input and production costs by reducing the availability of components from third countries.[17]

Impact on the competitiveness of Swedish companies in comparison with the rest of the EU

Sweden already has a well-established innovation ecosystem that performs strongly compared with many other parts of the EU. The proposal should not result in the creation of new EU-level administrative structures that disrupt or replace systems that are already functioning effectively in Sweden. Stakeholders consulted by the Council have, for example, highlighted the important role of innovation offices, business incubators, and university holding companies in supporting innovation and commercialization. These existing structures should be taken into account to ensure that the proposed measures complement, rather than duplicate or undermine, the support mechanisms already available to Swedish businesses.

8. Results of the Implementation Council's competitiveness test

The Implementation Council's competitiveness test presents the expected impact on the competitiveness of Swedish businesses as it can be assessed at an early stage based on the Commission's impact assessment. The test is based on the Commission's 'Better Regulation' Toolbox[18] and the Implementation Council makes assessments of the impact on Swedish companies' competitiveness based on the following dimensions: cost and price competition, international competitiveness, innovation and investment incentives, and the competitiveness of SMEs. The competitiveness impact is assessed on a 5-point scale: (++/+/0/-/--/ n.a.). It is a descending scale where (++) represents a very positive impact and (- -) a very negative impact.

Against the background of the Implementation Council's competitiveness test, the Council considers that the Commission's conclusions in its impact

[17] The report European Preference and Competitiveness under the IAA, published by the Confederation of Swedish Enterprise and based on an analysis by Copenhagen Economics, examines the IAA legal act and its proposed requirements for European preference. With regard to the cost picture, the analysis shows that such origin requirements risk driving up costs by between 10 and 40 percent in the affected sectors (including solar cells, batteries and electric buses) as a result of limited supplier choices and reduced competition.

[18] See pp. 163–198 Better Regulation Toolbox.

assessment should be interpreted with some caution. Compared with the Council's overall assessment, the Commission's evaluation is more optimistic across all four dimensions. This is particularly the case with regard to the SME dimension, where significant uncertainties remain concerning the actual benefits the proposal will bring to SMEs, especially in relation to the provisions on European preference.

Furthermore, the Council finds that the Commission's supporting analysis suffers from significant methodological shortcomings. The impact assessment relies to a considerable extent on working papers and older references, the relevance of which to today's innovation and business environment may reasonably be questioned. Of particular concern is the complete absence of actual cost estimates for businesses regarding R&D procurement and European preference, where the Commission has relied solely on a simple three-level scale (low/medium/high). In addition, the Commission's calculation of the effects of EU preference on EU GDP is based exclusively on a single input value derived from a popular science article from Ukraine.[19] The lack of underlying data and scientific transparency, combined with the fundamental differences between Ukraine and the EU's internal market, means that, according to the Implementation Council's assessment, the data does not meet the requirements for an evidence-based analysis and cannot currently serve as a reliable basis for decision-making.

9. The Implementation Council's basis for Sweden's position ahead of EU negotiations

The Implementation Council notes that the proposal for the EIA does not fully meet the expectations that have existed regarding a more comprehensive European innovation agenda. The Implementation Council therefore wishes to emphasize that there remains a need for a more harmonised internal market with fewer barriers to trade, better access to talents and more integrated capital markets. In the Council's view, the EIA should be seen as a complement to such horizontal reforms, not a replacement for them.

[19] See Shepotilo (2020) How will preferential treatment of local producers in public procurement affect the GDP of Ukraine | Vox Ukraine

The Council further notes that Sweden is described as a leading nation in innovation and therefore considers that the EIA should strengthen and complement existing structures and working methods rather than establishing new parallel structures.

Against this background, the Implementation Council proposes that the Government should take an active role in the work on the EIA proposal and apply the following guiding principles when developing Swedish positions for the negotiations:

- **Ensure consistency with related legislation to avoid uncertainty and regulatory overlap**

Negotiations are currently ongoing on several legislative initiatives that are linked to the EIA proposal. The most significant is the revision of the EU public procurement framework, but the proposals for the IAA, EU Inc., and CADA[20] also overlap with the EIA, for example regarding European preference, strategic technologies, digital systems, and companies' access to financing. Stakeholders consulted by the Council fear that these parallel negotiation processes may result in overlapping regulations, creating uncertainty and/or multiple layers of regulatory burden. The Council therefore wishes to highlight the importance of monitoring developments and, where possible, ensuring that this does not occur.

- **Ensure that the regulation of R&D procurement takes into account the specific nature and conditions of the companies concerned, particularly regarding requirements for market consultations**

The proposal to strengthen R&D procurement is generally welcomed by the stakeholders that has been contacted by the Council. However, the regulatory framework must be designed with the specific nature and circumstances of the affected companies in mind, especially SMEs. This means that new rules and requirements must be balanced against the flexibility that companies have enjoyed to date, thereby ensuring that procurement rules do not inhibit innovation. Requirements for market consultation prior to the procurement of R&D services should therefore be applied with caution and through a flexible process in which the need for

[20] Public Procurement Act COM(2026) 590 final, Industrial Accelerator Act COM(2026)100, Cloud and AI Development Act COM(2026) 502, EU Inc. COM(2026) 321

market consultation can be adapted to the characteristics of the procurement and the maturity of the market.

- **Support the proposal for an increased use of functional requirements in R&D procurement**

The Implementation Council considers that functional requirements should, wherever possible, be used to give suppliers the opportunity to propose different solutions. This can contribute to a greater number of better tailored, more innovative, and more cost-effective tenders.

- **Advocate for quality and innovation criteria to be designed with sufficient flexibility to accommodate different types of procurement**

In R&D procurements, contracting authorities should be given greater scope to design evaluation criteria that take into account innovation potential, societal benefits and commercialisation opportunities, while ensuring that the criteria remain clear, predictable and proportionate for suppliers.

- **Ensure that the multiple sourcing system and competitive development in phases do not result in disproportionate costs or administrative burdens for businesses**

The Implementation Council assesses that the provisions on the multiple sourcing system and competitive development in phases can have the potential to increase efficiency and promote more innovative solutions by giving more companies the opportunity to compete in parallel. At the same time, the Council considers it important that the number of phases, documentation requirements and parallel suppliers is proportionate to the value and risk of the contract and to ensure that the participating companies are compensated for the costs incurred during the procurement process.

- **Ensure that provisions and exemptions intended to facilitate the participation of SMEs are effective in practice**

The EIA contains, among other things, provisions and exemptions aimed at making it easier for SMEs to participate in R&D procurement. The Council believes that the Government should work to ensure that these have a practical impact.

- **Be restrictive in the introduction of rules about European preference**

The Council recommends taking into account the widespread scepticism surrounding the proposed provisions on European preference. The requirements that companies may have to comply with risk becoming financially and administratively burdensome without providing corresponding benefits in terms of increased competitiveness within the internal market. Based on the Council's competitiveness test, there are also methodological shortcomings in the Commission's impact assessment with regard to European preference. The Government should therefore work to ensure that any requirements are formulated on the basis of thorough proportionality assessments. Furthermore, the Government should advocate for a clear definition of the concept of foreign control. Any restrictions should be applied restrictively and only when justified by well-founded security concerns.

- **Safeguard the rules on intellectual property rights**

The Council believes that the Government should work to ensure that the provisions of the EIA that strengthen suppliers' ownership rights over intangible assets are safeguarded and not watered down in the ongoing negotiations. The Council also believes there is reason to advocate for narrower and clearer exceptions so that the main principle of supplier ownership is not weakened in practice. In its opinion on the EU's public procurement framework, the Council has[21] also expressed the importance of the regulations providing clear predictability as to when the transfer of ownership of intangible assets may be required, that licensing solutions are the starting point, and that requirements for transfer may only be imposed when necessary and proportionate.

- **Advocate for the proposed Competence Centre to be clearly designed and user-friendly**

The Council has understood that from a business perspective, there is some concern that the proposed platform and the Competence Centre risk adding additional administrative burden. The competence centre should be simple, user-friendly, and provide clear added value for businesses, particularly SMEs. This is a prerequisite for its practical uptake and for its ability to

[21] See the Implementation Council's opinion, *Basis for Sweden's position ahead of EU negotiations – proposal for a revision of the EU procurement framework*, p. 21. The-Swedish-Implementation-Council-position-on-Public-Procurement-Act-1.pdf

genuinely assist companies in valuing, financing, and commercializing their intellectual assets. It is also important to clearly establish that the valuation of intellectual property rights is voluntary, so that the system is not perceived as the standard approach relative to other valuation methods.

- **Promote provisions that the act should be evaluated regularly and more frequently than every five years**

According to the EIA proposal, evaluations of the legislative act should be conducted every five years. Given the shortcomings identified in the evidence base underpinning the Commission's impact assessment, the effects of the proposal should be reviewed at intervals shorter than five years.

Contact persons in this case are Secretaries Vilma Bjurström, Lena Nordqvist and Jennie Utterberg (förnamn.efternamn@regeringskansliet.se).

Decided by the Implementation Council on 23 October 2026.