
VI. Lessons from the EU Chips Act on Public-Interest Guarantees

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As the EU embraces industrial policy, it has spent little to no attention on how to guarantee that public money and resources actually serve the public interest. The EU would be well-advised to look back on previous industrial policy initiatives, such as the EU Chips Act, and learn from its mistakes.

The EU Chips Act, the Biggest Digital Industrial Policy So Far Dominated by Intel

The current proposals will not be the EU's first foray into industrial policy. Following the shocks that the COVID-19 pandemic sent through the supply chain, increased geopolitical tensions, and in response to aggressive industrial policy from the Biden administration, the EU quickly prepared a set of acts meant to support the domestic market. The EU Chips Act was one of them.

Its stated objectives were to guarantee the EU's competitiveness and resilience in the semiconductor market. It was the EU's rushed move to join the global chips subsidies war¹²⁸ by directly funding innovative semiconductor products and creating a framework to facilitate public and private investment in semiconductor production in Europe. The Act's ambitious aim was to mobilize €43 billion euros to be matched by private investment, in an effort to increase the EU's global market share in chips to 20 percent by 2030.

It is largely expected to fail.

By far, the biggest supported investor is set to be Intel, the US company that, in spite of a declining share, still dominates the market for central processing units.¹²⁹ In 2023, Intel

¹²⁸ Mackenzie Hawkins, Ian King, Jillian Deutsch, Yoshiaki Nohara, and Yuan Gao, "Global Chips Battle Intensifies With \$81 Billion Subsidy Surge," Bloomberg, May 12, 2024,

<https://www.bloomberg.com/news/features/2024-05-12/chip-technology-spending-gets-81-billion-boost-in-china-rivalry>.

¹²⁹ "AMD vs Intel Market Share," PassMark Software, accessed and last updated October 10, 2024,

https://www.cpubenchmark.net/market_share.html.

announced¹³⁰ it had signed a €30 billion investment agreement with Germany after strong-arming¹³¹ the government to increase the value of public subsidies to €10 billion. This was to be complemented by another investment in Poland, supported by the Polish government with €1.7 billion.¹³² The Polish project was approved by the EU Commission on September 13, 2024. Four days later, Intel announced it was pausing all investments in Europe.¹³³

The move was not unexpected; the company had been struggling with declining profitability for years and has largely fallen behind in the AI chips race.¹³⁴ It had turned to public subsidies to plug the gap, but even that did not suffice.

Whether the Chips Act's market-share goal is achieved or not is merely a symptom of a wider problem. It lacks a well-defined vision for how to reshape the EU's semiconductor industry.¹³⁵ It also fails to impose social, environmental, or redistributive conditions on the public subsidies granted to ensure they meet broader public goals.

This likely reflects the policymaking process. According to lobby-meeting data, high-level EU Commission officials had no discussions about the plans with trade unions, environmental organizations, or any other civil society organizations. Intel had twenty such discussions, or about 15 percent of all meetings.

Transparency is the Minimum Requirement

The public has been excluded not only from the negotiations, but also from the ability to scrutinize the resulting agreements.

Take Germany's deal with Intel. Responding to SOMO's freedom of information request,¹³⁶ the German government refused to disclose what—if any—conditions and criteria were

¹³⁰ "Intel, German Government Agree on Increased Scope for Wafer Fabrication Site in Magdeburg," Intel, press release, June 19, 2023, <https://www.intel.com/content/www/us/en/newsroom/news/intel-german-government-agree-magdeburg.html>.

¹³¹ Hans von der Burchard and Pieter Haeck, "Scholz Bags €30 Billion Intel Deal in Exchange for More Subsidies," *Politico*, June 19, 2023, <https://www.politico.eu/article/olaf-scholz-wants-germany-to-become-major-chips-producer-warns-china-over-taiwan-intel-deal>.

¹³² "Poland Gets Green Light from EU for Intel Chip Plant," Notes from Poland, September 13, 2024, <https://notesfrompoland.com/2024/09/13/poland-gets-green-light-from-eu-for-intel-factory>.

¹³³ "A message from Intel CEO Pat Gelsinger to Employees Regarding the Next Phase of Intel's Transformation," Intel, press release, September 16, 2024, <https://www.intc.com/news-events/press-releases/detail/1710/a-message-from-intel-ceo-pat-gelsinger-to-employees>.

¹³⁴ Adam Tooze, "Chartbook 306 Nodes, Rebar and Private Equity: How Intel, the Weak Link in the Chip Strategy of Bidenomics, Is Resorting to Financial Engineering to Raise Billions for Fabs," Chartbook, August 7, 2024, <https://adamtooze.substack.com/p/chartbook-306-nodes-rebar-and-private>.

¹³⁵ Jan-Peter Kleinhans, *The Missing Strategy in Europe's Chip Ambitions*, Interface, July 30, 2024, <https://www.interface-eu.org/publications/europe-semiconductor-strategy>.

¹³⁶ "Intel-Investitionsmemorandum," FragDenStaat, April 19, 2024, <https://fragdenstaat.de/anfrage/intel-investitionsmemorandum>.

attached to the €10 billion subsidies. It argued that to do so would threaten the country's relationship with the United States by causing a "loss of trust" from the US-based Intel. Plus, according to them, disclosure could "give other countries an advantageous position in the race to attract such companies" and, finally, "significantly impair" the state aid review to be done by the EU Commission.¹³⁷

Intel, a private company that actively sought public support, is effectively being treated as a diplomatic partner.

When it comes to public money, secret deals are a bad precedent. Transparency is the basic requirement to enable citizens to scrutinize public subsidies to corporations. The geopolitical chips power struggle cannot get in the way of public accountability.

Learning from the US

While the EU Chips Act is a response to the US Chips and Science Act of 2022 (US CHIPS), it compares poorly when it comes to public-interest conditionalities.

The US CHIPS Act had a more developed vision of how to leverage public subsidies for wider political goals, from the US's trade dispute with China to workers' rights. In fact, there are promising and ambitious conditions that companies must fulfill to be eligible.¹³⁸ A particular highlight is the obligation to develop a workforce development plan, including employer engagement, training, competitive wages, affordable childcare, and inclusion of disadvantaged people.¹³⁹ If these conditions are not met, funding can be stopped or the companies might even have to pay it back through a clawback mechanism.¹⁴⁰

The US CHIPS Act is not perfect, and it remains to be seen how these conditionalities will be enforced in practice. Yet, unlike in the EU, US trade unions and civil society groups have been much more active in shaping it, actively pushing for stronger labor and

¹³⁷ Ibid.

¹³⁸ Julia Pamilih, "Industrial Policy with Conditionalities: U.S. CHIPS & Science Act," Reimagining the Economy, Malcolm Wiener Center for Social Policy, Harvard Kennedy School, February 21, 2024, <https://www.hks.harvard.edu/centers/wiener/programs/economy/our-work/reimagining-economy-blog/industrial-policy>.

¹³⁹ NIST, *Workforce Development Planning Guide: Guidance for CHIPS Incentives Applicants*, CHIPS Program Office, March 27, 2023, <https://www.nist.gov/system/files/documents/2023/03/30/CHIPS%20Workforce%20Development%20Planning%20Guide%20%281%29.pdf>.

¹⁴⁰ Fabio Bulfone, Donato Di Carlo, Filippo Bontadini, and Valentina Meliciani, "Adjusting to New Geopolitical Realities Semiconductors Industrial Policy in the US and EU," Istituto Affari Internazionali, May 23, 2024, <https://www.iai.it/en/pubblicazioni/adjusting-new-geopolitical-realities-semiconductors-industrial-policy-us-and-eu>.

environmental conditions.¹⁴¹ It also shows the possibilities for leveraging available tools to shape the market in the public interest.

Civil society organizations have also been leading the call to fix one of the US CHIPS Act's biggest problems: it does not entirely ban subsidized companies from using that money to pay out its shareholders and directors via stock buybacks.¹⁴²

In the US, when awarding CHIPS subsidies, preference is to be given to companies that commit to conducting no stock buybacks for five years. However, Senator Elizabeth Warren has pointed out that BAE Systems was in the midst of a \$2 billion buyback when it was awarded the subsidies; and Intel, the largest recipient in the US, has just been reauthorized by its board to buy back up to \$7.24 billion.¹⁴³

Stock buybacks are a big problem for the EU too. SOMO calculated that, from 2014 to 2023, ASML, the Dutch semiconductor champion, received €4.4 billion in tax rebates, enabling it to reach profits as high as €35.7 billion in a year.¹⁴⁴ In the very same period, the company passed on 80 percent of its profits to shareholders via untaxed dividend payments and share buybacks.¹⁴⁵ Most of these shareholders were outside the EU.

If EU policymakers are seriously trying to stimulate R&D and investment inside the single market, mandatory limits to buybacks must be carefully considered.

Industrial Policy Can Only Achieve Public Interest if it Includes the Public

At a time of pressing climate change, a cost-of-living crisis, and increasing levels of market and wealth concentration, the EU must ensure that its industrial policies don't end up accelerating inequality, unsustainable production, and market concentration. Policies should be built from the ground up with the public interest in mind, using conditionalities.

¹⁴¹ Communications Workers of America, "CHIPS Communities United: Over 50 National and Local Groups Call on Semiconductor Manufacturing Companies to Deliver on the Promise of Good Jobs, Stronger Communities, and Environmental Protections," press release, October 25, 2023, <https://cwa-union.org/news/releases/chips-communities-united-over-50-national-and-local-groups-call-semiconductor>.

¹⁴² Sarah Anderson and Natalia Renta, *REPORT: Maximizing the Benefits of the CHIPS Program*, Institute for Policy Studies, July 11, 2024, <https://ips-dc.org/report-maximizing-the-benefits-of-the-chips-program>.

¹⁴³ Elizabeth Warren, "Warren, Casten, Foster, Jayapal to Commerce: No CHIPS Funding for Stock Buyback Subsidies," press release, July 1, 2024, <https://www.warren.senate.gov/newsroom/press-releases/warren-casten-foster-jayapal-to-commerce-no-chips-funding-for-stock-buyback-subsidies>.

¹⁴⁴ David Ollivier de Leth, "Overheid pampert ASML en aandeelhouders met 4,4 miljard euro belastingkorting," SOMO, June 4, 2024, <https://www.somo.nl/nl/overheid-pampert-asml-en-aandeelhouders-met-44-miliard-euro-belastingkorting>.

¹⁴⁵ Myriam Vander Stichele, "Why Share Buybacks Are Bad for the Planet and People," SOMO, July 19, 2024, <https://www.somo.nl/why-share-buybacks-are-bad-for-planet-and-people>.

The trade union IndustriAll has, for instance, called for subsidies to be predicated on better value sharing with workers, an obligation to share profits obtained or to reinvest them within Europe, and goals to reduce emissions and water consumption.¹⁴⁶ European civil society organizations, including SOMO, have called for industrial policy to support a more diverse and balanced economy by avoiding support to dominant companies and implementing strict limitations on buybacks, executive pay, and dividend payments.¹⁴⁷

For future EU digital industrial proposals to succeed where past initiatives have floundered, policymakers need to change course, deliver public transparency, and guarantee the inclusion of trade union and civil society voices.

¹⁴⁶ IndustriAll Europe, *The Semiconductor Industry in Europe: Between Geopolitics and Tech Race*, May 2024, [https://www.industriall-europe.eu/documents/upload/2024/5/638503252902676944_semi_conductors_Draft_policy_brief_-_common_pact_\(002\).pdf](https://www.industriall-europe.eu/documents/upload/2024/5/638503252902676944_semi_conductors_Draft_policy_brief_-_common_pact_(002).pdf).

¹⁴⁷ Margarida Silva, "Rebalancing Europe: A CSO Economic Agenda to Tackle Monopoly Power," SOMO, April 8, 2024, <https://www.somo.nl/rebalancing-europe>.