

EUROPEAN REGULATION MOTION

- ① The French Senate,
- ② Having regard to article 88-4 of the Constitution,
- ③ Having regard to the Treaty on the Functioning of the European Union and in particular articles 63,64 and 207,
- ④ Having regard to the Reflection paper on harnessing globalization published by the European Commission on 10 may 2017,
- ⑤ Having regard to the European Parliament Resolution of 5 June 2017 on building an ambitious EU industrial strategy as a strategic priority for growth, employment and innovation in Europe, in particular items 16 to 20,
- ⑥ Having regard to the European Council conclusions of 23 June 2017 (EUCO 8/17),
- ⑦ Having regard to the proposal for Regulation of the European Parliament and Council of 13 September 2017 establishing a framework for the screening of foreign direct investments in the European Union,
- ⑧ Having regard to the Commission's Communication COM(2017) 494 to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the regions of 13 September 2017 "Welcoming foreign direct investment while protecting essential interests",
- ⑨ Underlining that the European Union is one of the most open markets in the world regarding trade and investments;
- ⑩ Recalling that the European Union is the main source and the main destination of foreign direct investments in the world;

- ⑪ Considering that foreign direct investments have a positive effect on growth and employment in the European Union, that they stimulate productivity and innovation, make European companies more competitive and open up new export markets for the European Union;
- ⑫ However, considering that some foreign direct investors, especially some public companies or States, do not fully respect the principles of fair and reciprocal competition, including investments;
- ⑬ Also considering that foreign investors are increasingly looking for strategic assets and that takeovers of such assets could be detrimental to the essential interests of the European Union or Member States and prejudice the public security or public order;
- ⑭ Believes it is crucial to maintain the European Union wide opening to foreign direct investments and underlines that the screening of such investments within the European Union is not a sign of mistrust towards these investments;
- ⑮ Underlines the need to prevent distortion of competition and to define and implement a coherent and effective European anti-dumping and anti-subsidy strategy;
- ⑯ Considers necessary to enact binding rules and commitments regarding foreign direct investments in bilateral or regional trade agreements and to strengthen multilateral cooperation;
- ⑰ Welcomes the initiative taken by the European Commission which delineates essential elements of the procedural framework in the national vetting systems and validates the existing national screening systems for foreign direct investments adversely affecting public security or public order; stresses the need for an open-ended approach for the European Union's strategic interests;
- ⑱ Recommends that the legal certainty of national screening systems should be completed with requirements of speedy and efficient judicial review in case of appeals against the decisions of the national screening authorities;
- ⑲ Observes that the list of factors likely to be taken into consideration on the ground of national security and public order

serves to inform investors but is not restrictive, which allows for situations that are not yet identified;

- ⑳ Welcomes the organization of the protection of assets essential to European projects or programs under the aegis of the European Commission;
- ㉑ Considers indispensable for this control to be able to take into account, if need be, the public nature of the foreign investor or the existence of public funding;
- ㉒ Observes that the Regulation proposal is consistent with the merger control and sectorial European regulations dealing with the foreign ownership;
- ㉓ Underlines that in order to achieve transparency on foreign direct investments in the European Union, it is crucial to identify the ultimate investor;
- ㉔ Underlines the necessity of a strong intra-European cooperation regarding the identification and the follow-up of foreign direct investments likely to harm essential interests of the European Union or Member States public safety and public order;
- ㉕ Observes that the intra-European cooperation should help to prevent circumvention of national foreign direct investments screening systems if Member States quickly answer to requests for information;
- ㉖ Thereupon points out that Member States requested for information by the Commission and other Member States within the proposed cooperation mechanism should be required to respond by a predetermined deadline, the concept of absence of undue delay in the control procedures appearing irrelevant;
- ㉗ Highlights that the confidentiality of information exchanged must be strictly ensured;
- ㉘ Considers essential to quickly establish the coordination group, which setting up has been announced by the Commission, in order to conduct on a regular basis an analysis of European key interests and foreign direct investments inflows in the European Union, on the basis of information exchanged as part of the

cooperation between Member States and the Commission as provided for in the regulation proposal;

②⑨ Advocates that this group be permanent and put in charge of monitoring the cooperation between Member States, ensuring that they effectively implement foreign direct investments declaration proceedings, defines a common methodology and encourages convergence of national systems monitoring foreign direct investments;

③⑩ Encourages the Government to support these directions and put them forth in the ongoing negotiations.