



2017/0224(COD)

25.4.2018

OPINION

of the Committee on Industry, Research and Energy

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council
establishing a framework for screening of foreign direct investments into the
European Union
(COM(2017)0487 – C8-0309/2017 – 2017/0224(COD))

Rapporteur: Reinhard Bütikofer

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SHORT JUSTIFICATION

Your rapporteur supports the overall objectives and the main elements of the proposal for Regulation to establish a framework for the screening by the Member States and the Commission of the Foreign Direct Investments (FDI) originating from third-countries in the EU. Although FDI are often an opportunity for the EU's economy, there can also be some instances where allowing certain investments can bear a risk to the Union's and Member State's security and public order.

The EU is far from speaking with a single voice on foreign investment in Europe, thus streamlining the convergences, where possible, will be a crucial first step in formulating solid and complementary policy positions at EU level. It will enable the EU to have a common response to the rapidly evolving and increasingly complex investment landscape while at the same time positioning the EU in line with other global trade and investment partners that already operate FDI screening mechanisms.

Setting up a fully functioning coordination framework across the EU will however be a long-term endeavour, as Member States have today different approaches, some having no screening mechanism in place at all. Your rapporteur therefore supports that the establishment of such a screening mechanism by the Member States should remain voluntary, as put forward in the Commission proposal, while on the other hand enabling those countries that perform such a screening to cooperate more closely. In addition your rapporteur believes that there is a need to streamline the information processes, while at the same time reduce the administrative burdens for all the Member States.

The amendments and clarification proposal include:

- Clarifying the definition of foreign investor with regards to its ownership and effective control, as the location of an undertaking does not necessarily reveal from where the investment is effectively coming from;
- In line with screening frameworks established across OECD countries, enlarge the non-exhaustive list of areas of critical technologies, infrastructure and sectors that may be taken into consideration and on which potential foreign investment may have an effects on grounds of security or public order,
- Possibility of enabling screening mechanisms of the Member States and the Commission to be activated by Trade Unions, taking example from the current system in the United States;
- Possibility for the European Parliament to request the activation of the cooperation mechanism for projects and programmes of Union interest;
- Ensure that the Commission performs its screening on relevant projects and programmes of Union interest financed under the current, but also the future, Multi-Annual Financial Frameworks;
- To limit the possible misuse or abuse of such a framework by ensuring that Member States provide justified explanations on how a foreign direct investment planned in

another Member State is likely to affect their security or public order, as well as by strengthening the coordination function of the Commission;

- The introduction of an Investment Screening Coordination Group where Member States that have a screening a mechanism in place would exchange information and opinions of ongoing screening by Member States and the Commission;
- Reduce burden of information requirements on the Member States and set the reporting requirements to every three years after two years from the entry into force of the Regulation;

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The Union and the Member States have an open investment environment, which is enshrined in the Treaty on the Functioning of the European Union ('TFEU') and embedded in the international commitments undertaken by the Union and its Member States with respect to foreign direct investment.

Amendment

(2) The Union and the Member States have an open investment environment, which is enshrined in the Treaty on the Functioning of the European Union ('TFEU') and embedded in the international commitments undertaken by the Union and its Member States with respect to foreign direct investment. ***Considering this openness, the Union should foster the level playing field in the relations with third countries.***

Amendment 2

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Whereas screening mechanisms which exist in several Member States or in third countries never constitute an obstacle to foreign direct investments provided that they are known, anticipated and don't extensively delay investments'

realisation.

Amendment 3

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) It is important to provide legal certainty and to *ensure* EU wide *coordination and* cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order. This is without prejudice to the sole responsibility of the Member States for the maintenance of national security.

Amendment

(7) It is important to provide legal certainty and to *aim at* EU wide cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order *where strategic interests are affected, including, among others, enabling key technologies, strategic assets, strategic and sensitive data etc.* This is without prejudice to the sole responsibility of the Member States for the maintenance of national security *and public order.*

Amendment 4

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In assessing the mechanism for controlling foreign direct investment, care should be taken to verify the proper functioning of the internal market through measures to prevent downward competition between companies and between Member States regarding tax and remuneration and reward socially responsible company purchasing policies that ensure sustained employment and decent pay.

Amendment 5

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst ***maintaining the necessary flexibility for*** Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances.

Amendment

(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances ***in global trade***, whilst ***fully safeguarding the prerogatives of the*** Member States to screen foreign direct investments on grounds of security and public order, ***including, among others, strategic interests, enabling key technologies, strategic assets, strategic and sensitive data, etc., and*** taking into account their individual situations and national circumstances. ***The framework should also facilitate the Member States without a screening mechanism adopting one.***

Amendment 6

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) ***A broad range of*** investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered.

Amendment

(9) Investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered, ***to the extent they relate to security and public order.***

Amendment 7

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In determining whether a foreign direct investment may affect security or public order, Member States and the

Amendment

(12) In determining whether a foreign direct investment may affect security or public order, Member States and the

Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, loss or destruction of which would have a significant impact in a Member State or in the Union. In that regard, Member States and the Commission should **also be able to** take into account whether a foreign investor is controlled directly or indirectly (*e.g.* through significant funding, **including** subsidies) by the government of a third country.

Commission should be able to consider all relevant factors, including the effects on critical infrastructure, **critical** technologies, including key enabling technologies, and inputs **or sensitive information** which are essential for security or the maintenance of public order, and the disruption, loss or destruction of which would have a significant impact in a Member State or in the Union. In that regard, Member States and the Commission should take into account whether a foreign investor is **owned, operated or otherwise** controlled directly or indirectly **by the government or state bodies of a third country and/or pursuing state-led outward foreign direct investments policies for strategic industrial goals, corroborated** through significant funding **and** subsidies, **extended credit and lending** by the government of a third country **or a state-owned financial institution. When screening a foreign direct investment, the Commission may also assess the effect on specific key know-how and technologies, which could be significant for the mid- and long-term economic security.**

Amendment 8

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States should be able to provide comments to **a** Member State **in which** the investment is planned **or has been completed, irrespective of whether the Member States providing comments or the Member States in which the investment is planned or has been completed maintain a screening**

Amendment

(14) A mechanism which enables Member States **and the Commission** to cooperate **in a transparent manner** and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States, **whose security or public order may be affected by a foreign direct investment in another Member State**, should be able to provide comments to **the Commission. The Commission should then forward all comments to the Member State where the**

mechanism or are screening the investment. The comments of Member States should also be forwarded to the Commission. The Commission should also have the possibility, where appropriate, to issue an opinion to the Member State in which the investment is planned *or has been completed, irrespective of whether this Member State maintains a screening mechanism or is screening the investment and irrespective of whether other Member States have provided comments.*

Amendment 9

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) Furthermore, the Commission should *have the possibility to* screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, *an indicative* list of projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission should be listed in an Annex.

Amendment 10

Proposal for a regulation Recital 16

investment is planned *as well as all other* Member States *concerned*. The Commission should also have the possibility, where appropriate, to issue an opinion to the Member State in which the investment is planned. *Based on the comments received, the Commission may request the issue to be discussed in the framework of* the Investment Screening Coordination Group.

Amendment

(15) Furthermore, the Commission should screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission *and Member States* a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, *a* list of projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission should be listed in an Annex.

Text proposed by the Commission

(16) Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission should ***have the possibility to*** address an opinion to the Member States in which such investment is planned or completed within a reasonable timeframe. The Member States should take ***utmost*** account of the opinion and provide an explanation to the Commission if they ***do not follow this*** opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.

Amendment 11

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission, Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. ***For the same reason***, Member States that do not have a screening mechanism should ***also*** report on the foreign direct investments that took place in their territory, ***on the basis of the information available to them***.

Amendment

(16) Where the Commission ***or more than one Member State*** considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission should address an opinion to the Member States in which such investment is planned or completed within a reasonable timeframe. The Member States should take account of the opinion and provide an explanation to the Commission if they ***diverge from the*** opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.

Amendment

(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission, Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. ***However***, Member States that do not have a screening mechanism should report ***annually*** on the foreign direct investments that took place in their territory ***where such investments pertain to projects and programmes of Union interest. All reporting obligations should be applicable from ... [two years after entry into force of this Regulation]***.

Amendment 12

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) To that end, it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. ***This information should be made available by the*** Member States in which the foreign direct investment is planned or has been completed upon request of the Member States or of the Commission. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, ***when available,*** information about subsidies granted by third countries.

Amendment

(18) To that end, it is also important to ensure a minimum level of information ***exchange*** and coordination ***between Member States*** with regard to foreign direct investments falling under the scope of this Regulation in all Member States. Member States in which the foreign direct investment is planned or has been completed ***should make this information available*** upon request of the Member States or of the Commission ***or the Investment Screening Coordination Group***. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including information about subsidies granted by third countries.

Amendment 13

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of contact points for the screening of foreign direct investments in each Member State.

Amendment

(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of contact points for the screening of foreign direct investments in each Member State, ***as well as through the establishment of an Investment Screening Coordination Group. The group should be formed of representatives of Member States and chaired by a representative of the Commission and may serve as a platform to exchange views and information, to improve cooperation and coordination, and to assist each other on foreign direct investment.***

Amendment 14

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) No later than **three** years after the entry into force of this Regulation, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.

Amendment

(21) No later than ... [**four** years after the entry into force of this Regulation], **and every five years thereafter**, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.

Amendment 15

Proposal for a regulation

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) In order to update the projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of the projects and programmes of Union interest referred to in Article 3(3) and listed in Annex 1. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1a}. In particular, to ensure equal participation

in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

^{1a} OJ L 123, 12.5.2016, p. 1.

Amendment 16

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

This Regulation establishes a framework for the screening by the Member States *and the Commission* of foreign direct *investments* in the Union on the grounds of security or public order.

Amendment

This Regulation establishes a framework for the screening by the Member States of foreign direct *investment* in the Union on the grounds of security or public order *and establishes the role of* the Commission *therein*.

Amendment 17

Proposal for a regulation Article 2 – paragraph 1 – point 2

Text proposed by the Commission

2. 'foreign investor' means a natural person of a third country or an undertaking of a third country intending to make or having made a foreign direct investment;

Amendment

2. 'foreign investor' means a natural person of a third country or an undertaking *effectively controlled or owned by nationals* of a third country, intending to make or having made a foreign direct investment;

Amendment 18

Proposal for a regulation Article 2 – paragraph 1 – point 6

Text proposed by the Commission

6. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country.

Amendment

6. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country ***or an undertaking effectively controlled or owned by nationals of a third country.***

Amendment 19

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. Member States may maintain, amend or adopt mechanisms to screen foreign direct investments on the grounds of ***security or*** public order, under the conditions and in accordance with the terms set out in this Regulation.

Amendment

1. Member States may maintain, amend or adopt mechanisms to screen foreign direct investments on the grounds of public order ***or security,*** under the conditions and in accordance with the terms set out in this Regulation.

Amendment 20

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. The Commission ***may*** screen foreign direct investments that are ***likely*** to affect projects or programmes of Union interest on the grounds of security or public order.

Amendment

2. The Commission ***shall*** screen foreign direct investments that are ***considered*** to affect projects or programmes of Union interest on the grounds of security or public order

Amendment 21

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

3. Projects or programmes of Union interest shall include in particular those

Amendment

3. Projects or programmes of Union interest shall include in particular those

projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. **An indicative** list of projects or programmes of Union interest is included in Annex 1.

projects and programmes which involve a substantial amount or a significant share of EU funding **under current and future Multiannual Financial Frameworks**, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. **The** list of projects or programmes of Union interest is included in Annex I.

Amendment 22

Proposal for a regulation Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission is empowered to adopt delegated acts in accordance with Article 13a to amend projects and programmes listed in Annex I.

Amendment 23

Proposal for a regulation Article 3 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The cooperation mechanisms referred to in Articles 8 and 9 may be activated only after the Member States have notified the activation of their screening mechanisms. In no way can the cooperation mechanisms be activated for completed investments where Member States only screen planned investments. Only in exceptional cases and if Member States and the Commission have reasonable ground to believe that any information listed in Article 10 paragraph 2 have changed and only in cases of investments completed after the entry into force of this Regulation, can the cooperation mechanism be activated for completed investments. When the cooperation mechanism referred to in

Article 9 is activated for investments taking place in Member States that do not have a screening mechanism, completed investments may be addressed in the framework of the Investment Screening Coordination Group as referred to in Article 12a.

Amendment 24

Proposal for a regulation

Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

In screening a foreign direct investment on the grounds of security or public order, Member States and the Commission may consider the potential effects on, inter alia:

Amendment

In screening a foreign direct investment on the grounds of security or public order *of one or more Member State or the security or public order in terms of projects or programmes of Union interest*, Member States and the Commission may consider the potential effects on, inter alia:

Amendment 25

Proposal for a regulation

Article 4 – paragraph 1 – indent 1

Text proposed by the Commission

- critical infrastructure, including energy, transport, communications, data storage, space or financial infrastructure, as well as sensitive facilities;

Amendment

- critical *and strategic* infrastructure, including energy, *water*, transport, communications *and the media*, data storage, space, *health services, research* or financial infrastructure, as well as sensitive facilities *and any security and defence infrastructure*;

Amendment 26

Proposal for a regulation

Article 4 – paragraph 1 – indent 2

Text proposed by the Commission

- critical technologies, including

Amendment

- critical *and strategic* technologies,

artificial intelligence, robotics, semiconductors, technologies with potential dual use applications, cybersecurity, space or nuclear technology;

including artificial intelligence, robotics, semiconductors, **advanced materials, nanotechnologies, biotechnologies, medical technologies**, technologies with potential dual use applications, cybersecurity, **aerospace, defence**, space or nuclear technology;

Amendment 27

Proposal for a regulation

Article 4 – paragraph 1 – indent 3

Text proposed by the Commission

- the security of supply of critical inputs; or

Amendment

- the security of supply of critical inputs **of rare and strategic materials**; or

Amendment 28

Proposal for a regulation

Article 4 – paragraph 1 – indent 4

Text proposed by the Commission

- access to **sensitive information** or the ability to control sensitive information.

Amendment

- access to or the ability to control sensitive **data and** information.

Amendment 29

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission **may take into** account whether the foreign investor is controlled by the government of a third country, **including through** significant **funding**.

Amendment

In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission **shall take** account **of** whether the foreign investor is **directly or indirectly** controlled by the government **or state bodies** of a third country **and/or pursuing state-led outward foreign direct investments policies for strategic industrial goals, corroborated** through significant funding **or subsidies, extended**

credit and lending by the government of a third country or a state-owned financial institution. When screening a foreign direct investment, the Commission may also assess the effect on specific key know-how and technologies, which could be significant for the mid- and long-term economic security.

Amendment 30

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. Member States' screening mechanisms shall be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.

Amendment

1. Member States' screening mechanisms shall be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules ***regarding the screening and the screening decisions.***

Amendment 31

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall establish timeframes for issuing screening decisions. Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.

Amendment

2. Member States shall establish timeframes for issuing screening decisions ***and make them publicly available.*** Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.

Amendment 32

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

3. Confidential information, including commercially-sensitive information, made available by foreign investors and undertaking concerned shall be protected.

Amendment

3. Confidential information, including commercially-sensitive information, made available by foreign investors and undertaking concerned shall be **duly** protected.

Amendment 33

Proposal for a regulation

Article 7 – title

Text proposed by the Commission

Notification by Member States of screening mechanisms and **annual** reporting

Amendment

Notification by Member States of screening mechanisms and reporting

Amendment 34

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall notify to the Commission their existing screening mechanisms by [...] (30 days of the entry into force of this Regulation) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.

Amendment

1. Member States shall notify to the Commission their existing screening mechanisms by [...30 days of the entry into force of this Regulation] at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism **or of the amendments to the existing one** at the latest.

Amendment 35

Proposal for a regulation

Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Member States that maintain screening mechanisms shall provide the Commission with **an annual** report on the application of their screening mechanisms. For each reporting period, the report shall include in particular information on:

2. **By ... [2 years after the entry into force of this Regulation], and every two years thereafter**, Member States that maintain screening mechanisms shall provide the Commission with **a** report on the application of their screening mechanisms. For each reporting period, the report shall include in particular information on:

Amendment 36

Proposal for a regulation

Article 7 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) screening decisions regarding projects and programmes of Union interest;

Amendment 37

Proposal for a regulation

Article 7 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the sectors, origin, and value of foreign direct investment screened and undergoing screening.

deleted

Justification

The aim is to reduce the administrative burden for the Member States. This information will already be provided to the Commission (provision Article 8 paragraph 1) who will be able to aggregate the data.

Amendment 38

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

3. Member States that do not maintain screening mechanisms shall provide the Commission with ***an annual*** report covering foreign direct investments that took place in their territory, ***on the basis of information available to them.***

Amendment

3. ***By ... [two years after the entry into force of this Regulation], and every year thereafter,*** Member States that do not maintain screening mechanisms shall provide the Commission with a report covering foreign direct investments that took place in their territory ***when such investments pertain to projects and programmes of Union interest..***

Amendment 39

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

1. Member ***States*** shall inform the Commission and the other Member States of any foreign direct investments that are ***undergoing*** screening within the framework of ***their*** screening ***mechanisms***, within **5** working days from the start of the screening. As part of the information, and when applicable, the screening Member States shall endeavour to indicate whether it considers that the foreign direct investment undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004.

Amendment

1. A Member ***State*** shall inform the Commission and the other Member States of any foreign direct investments that are ***subject to*** screening within the framework of ***its*** screening ***mechanism***, within ***five*** working days from the start of the screening. As part of the information, and when applicable, the screening Member ***State*** shall endeavour to indicate whether it considers that the foreign direct investment ***which is subject to the*** screening is likely to fall within the scope of Regulation (EC) No 139/2004.

Amendment 40

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. Where a Member State considers that a foreign direct investment planned or completed in another Member State is likely to affect its security or public order, it may provide comments to the Member State where the foreign direct investment is

Amendment

2. Where a Member State considers that a foreign direct investment, planned or completed, in another Member State is likely to affect its security or public order, it may provide comments to the ***Commission. The Commission shall***

planned or has been completed. *The comments shall be forwarded to the Commission in parallel.*

collect all comments received and transmit them to the Member State where the foreign direct investment is planned or has been completed, *as well as to all other Member States.*

Amendment 41

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. Where the Commission considers that a foreign direct investment is likely to affect security or public order in one or more Member States, it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments.

Amendment

3. Where the Commission considers that a foreign direct investment is likely to affect security or public order in one or more Member States, it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. ***Such opinion shall also be transmitted to all other Member States.*** The Commission may issue an opinion irrespective of whether other Member States have provided comments.

Amendment 42

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. ***The Commission or*** a Member State which duly considers that a foreign direct investment is likely to affect its security or public order may request from the Member State where the foreign direct investment is planned or has been completed, any information necessary to provide comments referred to in paragraph 2, ***or to issue*** the opinion referred to in paragraph 3.

Amendment

4. A Member State which duly considers that a foreign direct investment is likely to affect its security or public order may ***address a request to the Commission to provide it with*** any information received from the Member State where the foreign direct investment is planned or has been completed which is necessary to provide comments referred to in paragraph 2. ***Member States have five working days from the day of the notification of the activation of a screening mechanism under paragraph 1 to address a request for information to the Commission. The***

Commission shall collect all requests for information received and immediately transmit them to the Member State where the foreign direct investment is planned or has been completed, as well as to the other Member States. The Commission may also on its own initiative request the Member State where the foreign direct investment is planned or has been completed to provide it with any information necessary to issue the opinion referred to in paragraph 3

Amendment 43

Proposal for a regulation Article 8 – paragraph 5

Text proposed by the Commission

5. Comments pursuant to paragraphs 2 *or opinions pursuant to paragraph 3* shall be addressed to the Member State where the foreign direct investment is planned or has been completed *within a reasonable period of time, and in any case no later than 25 working days following receipt of the information* referred to in *paragraphs 1 or 4*. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.

Amendment

5. Comments referred to in paragraph 2 shall be sent to *the Commission within a reasonable period of time, and in any case no later than 20 working days following the receipt of the information referred to in paragraphs 1 or 4. The Commission shall transmit the comments it received within five working days to the Member State where the foreign direct investment is planned or has been completed. The Commission shall issue the opinion referred to in paragraph 3 within 25 working days and* in cases where the opinion of the Commission follows the comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.

Amendment 44

Proposal for a regulation Article 8 – paragraph 6

Text proposed by the Commission

6. The Member States where the foreign direct investment is planned or has

Amendment

6. The Member States where the foreign direct investment is planned or has

been completed shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3.

been completed shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3, ***as well as to comments expressed within the framework of the Investment Screening Coordination Group as referred to in Article 12a.***

Amendment 45

Proposal for a regulation Article 8 – paragraph 7

Text proposed by the Commission

7. Cooperation between Member States pursuant to this Article shall take place through ***the contact points*** referred to in Article 12.

Amendment

7. Cooperation between Member States pursuant to this Article shall take place through ***discussion in the Investment Screening Coordination Group*** referred to in Article 12a ***if requested by the Commission.***

Amendment 46

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Framework for Commission screening

Amendment

Cooperation mechanism for screening of projects or programmes of Union interest

Amendment 47

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. Where the Commission ***considers*** that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission ***may*** issue an

Amendment

1. Where the Commission ***or more than one Member State duly consider*** that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public

opinion addressed to the Member State where the foreign direct investment is planned or has been completed.

order *of one or more Member States*, the Commission *shall* issue an opinion addressed to the Member State where the foreign direct investment is planned or has been completed.

Amendment 48

Proposal for a regulation Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The European Parliament may request the activation of the cooperation mechanism for projects and programmes of Union interest on grounds of security or public order. The Commission shall take utmost account of the European Parliament’s position and provide an explanation in the event it is not taken into account.

Amendment 49

Proposal for a regulation Article 9 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. If a Member State considers that a foreign direct investment may affect projects or programs of Union interest, it may requests the Commission to issue an opinion to the Member State in which the foreign direct investment is planned.

Amendment 50

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission may request from the Member State where the foreign direct

2. The Commission may request ***additional information as referred to in***

investment is planned or has been completed *any* information *necessary to issue the opinion referred to in paragraph 1.*

Article 10 from the Member State where the foreign direct investment is planned or has been completed. *When requesting such information, the Commission shall explain how security and public order may be affected by the foreign direct investment which is planned, is under consideration or which has been completed.*

Amendment 51

Proposal for a regulation Article 9 – paragraph 3

Text proposed by the Commission

3. The Commission shall *address* its opinion to the Member State concerned within a reasonable period of time, and in any case no later than 25 working days following receipt of the information *requested by the Commission* pursuant to paragraph 2. *Where a Member State has a screening mechanism in place as referred to in Article 3(1) and the information on foreign direct investment undergoing screening has been received by the Commission pursuant to Article 8(1), the opinion shall be delivered no later than 25 working days following receipt of such information. Where additional information is needed to issue an opinion, the 25-day period shall run from the date of receipt of the additional information.*

Amendment

3. The Commission shall *issue* its opinion to the Member State concerned within a reasonable period of time, *in order to not hamper due to unreasonable delays either the foreign direct investment or the national screening*, and in any case no later than 25 working days following receipt of the information *necessary to issue an opinion* pursuant to paragraph 1.

Amendment 52

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. The opinion of the Commission shall be communicated to the other Member States.

Amendment

4. The opinion of the Commission shall be communicated to the other Member States. *Where the Commission has provided an opinion under this*

article, it shall inform the European Parliament as part of a structured dialogue on foreign direct investment that affects security and public order. Article 11, Paragraph 2 has to be taken into full account.

Amendment 53

Proposal for a regulation Article 9 – paragraph 5

Text proposed by the Commission

5. The Member States where the foreign direct investment is planned or has been completed shall take **utmost** account of the Commission's opinion and provide **an** explanation to the Commission in case its opinion is not followed.

Amendment

5. The Member States where the foreign direct investment is planned or has been completed shall take account of the Commission's opinion and provide **a written** explanation to the Commission in case its opinion is not followed. **The Commission shall transmit this explanation to other Member States, taking full account of Article 11 (2).**

Amendment 54

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Information **requirements**

Amendment

Information **exchange**

Amendment 55

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the information requested by the Commission **and other Member States** pursuant to Articles 8(4) and 9(2) is made available **to the Commission and the requesting**

Amendment

1. Member States shall ensure that **any** information requested by the Commission pursuant to Articles 8(4) and 9(2) **or by the Investment Screening Coordination Group** is made available without undue delay, **while taking into**

Member States without undue delay.

account the sensitivity of the information and guaranteeing confidentiality.

Amendment 56

Proposal for a regulation

Article 10 – paragraph 2 – introductory part

Text proposed by the Commission

2. The information referred to in paragraph 1 of this Article *shall* include *in particular*:

Amendment

2. The information referred to in paragraph 1 of this Article *may* include *inter alia*:

Amendment 57

Proposal for a regulation

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) The ownership structure of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed, including information on the ultimate controlling shareholder or shareholders;

Amendment

(a) The ownership structure of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed, including information on the ultimate controlling shareholder or shareholders, *the administrative management and supervisory bodies.*

Amendment 58

Proposal for a regulation

Article 10 – paragraph 2 – point b

Text proposed by the Commission

(b) The value of the foreign direct investment;

Amendment

(b) The value of the foreign direct investment *and a projection of its sectorial impact*;

Amendment 59

Proposal for a regulation

Article 10 – paragraph 2 – point e

Text proposed by the Commission

(e) The funding of the investment, on the basis of information available to the Member State.

Amendment

(e) The funding of the investment **and the lawfulness of its source**, on the basis of information available to the Member State.

Amendment 60

**Proposal for a regulation
Article 11 – paragraph 2**

Text proposed by the Commission

2. Member States and the Commission shall ensure the protection of confidential information acquired in application of this Regulation.

Amendment

2. Member States, **the European Parliament** and the Commission shall ensure the **full** protection of confidential information, **including commercially-sensitive information**, acquired in application of this Regulation.

Amendment 61

**Proposal for a regulation
Article 12 – paragraph 1**

Text proposed by the Commission

Each Member State shall appoint a foreign direct investment screening contact point ('FDI screening contact point') **for the screening of foreign direct investment**. The Commission and other Member States shall involve these FDI screening contact points on all issues related to implementation of this Regulation.

Amendment

Each Member State, **regardless of whether it maintains a screening mechanism**, shall appoint a foreign direct investment screening contact point ('FDI screening contact point'). The Commission and other Member States shall involve these FDI screening contact points **and the Investment Screening Coordination Group** on all issues related to implementation of this Regulation.

Amendment 62

**Proposal for a regulation
Article 12 a (new)**

Article 12a

**Investment Screening Coordination
Group**

- 1. An Investment Screening Coordination Group chaired by a representative of the Commission shall be set up. Each Member State shall appoint a representative/expert to this group.**
- 2. The group may exchange views and information on any foreign direct investment that is subject of the screening within the framework of Member States' screening mechanisms and for which a cooperation mechanism has been activated under Article 8 or 9, including on the share of best practices and lessons learned among Member States on screening of foreign direct investment.**
- 3. The group may also discuss any issue pertaining to Union inward foreign investment policy.**
- 4. At the request of the Member States the Commission may put on the agenda the investments planned in Member States that do not have a screening mechanism.**
- 5. The Commission shall submit an annual report to the European Parliament on the activities, examinations and exchange of views of the Investment Screening Coordination Group.**

Amendment 63

**Proposal for a regulation
Article 13 – paragraph 1**

1. The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this

1. The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this

Regulation no later than **3** years after *its* entry into force. Member States shall be involved in this exercise and shall provide the Commission with necessary information for the preparation of that report.

Regulation no later than ... [**4** years after *the* entry into force *of this Regulation*], *and every 5 years thereafter*. Member States shall be involved in this exercise and shall provide the Commission with necessary information for the preparation of that report.

Amendment 64

Proposal for a regulation Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 3(3a) shall be conferred on the Commission for a period of five years from ... [date of the entry into force of this Regulation].*
- 3. The delegation of power referred to in Article 3(3a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
- 5. As soon as it adopts a delegated act, the Commission shall notify it*

simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 3(3a) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 65

Proposal for a regulation Annex I – indent 3 a (new)

Text proposed by the Commission

Amendment

- Joint technology initiatives of the Union including: Fuel Cells and Hydrogen, Aeronautics and Air Transport, Innovative Medicines Initiative, Electronic Components and Systems for European Leadership, Bio-based Industries, Shift2Rail, Single European Sky (SESAR);

Amendment 66

Proposal for a regulation Annex I – indent 3 b (new)

Text proposed by the Commission

Amendment

- Connecting Europe Facility: Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007

and (EC) No 67/2010.

Amendment 67

Proposal for a regulation Annex I – indent 3 c (new)

Text proposed by the Commission

Amendment

- ***European Fund for Strategic Investments***

Amendment 68

Proposal for a regulation Annex I – indent 3 d (new)

Text proposed by the Commission

Amendment

- ***Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013;***

Amendment 69

Proposal for a regulation Annex I – indent 3 e (new)

Text proposed by the Commission

Amendment

- ***Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub;***

Amendment 70

Proposal for a regulation Annex I – indent 6 a (new)

Text proposed by the Commission

Amendment

- *European Defence Industrial Development Programme;*
- a) European Defence Industrial Development Programme, and*
- b) European Defence Research programme / European Defence Fund*
- *European Commission Decision on the financing of the Preparatory Action on Defence Research (PADR);*

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing a framework for screening of foreign direct investments into the European Union
References	COM(2017)0487 – C8-0309/2017 – 2017/0224(COD)
Committee responsible Date announced in plenary	INTA 26.10.2017
Opinion by Date announced in plenary	ITRE 26.10.2017
Associated committees - date announced in plenary	18.1.2018
Rapporteur Date appointed	Reinhard Bütikofer 9.11.2017
Discussed in committee	21.2.2018
Date adopted	24.4.2018
Result of final vote	+: 36 –: 8 0: 19
Members present for the final vote	Zigmantas Balčytis, José Blanco López, David Borrelli, Jonathan Bullock, Cristian-Silviu Buşoi, Reinhard Bütikofer, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Theresa Griffin, Rebecca Harms, Hans-Olaf Henkel, Eva Kaili, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Peter Kouroumbashev, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Christelle Lechevalier, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Angelika Mlinar, Csaba Molnár, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Julia Reda, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Neoklis Sylikiotis, Dario Tamburrano, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Hermann Winkler, Flavio Zanonato, Carlos Zorrinho
Substitutes present for the final vote	Pilar Ayuso, Cornelia Ernst, Francesc Gambús, Françoise Grossetête, Werner Langen, Rupert Matthews, Răzvan Popa, Dominique Riquet, Theodor Dumitru Stolojan
Substitutes under Rule 200(2) present for the final vote	Rosa D'Amato

FINAL VOTE BY ROLL CALL
IN COMMITTEE ASKED FOR OPINION

36	+
ALDE	Dominique Riquet
ECR	Edward Czesak, Zdzisław Krasnodębski, Evžen Tošenovský
EFDD	Rosa D'Amato, Dario Tamburrano
ENF	Angelo Ciocca, Barbara Kappel, Christelle Lechevalier
NI	David Borrelli
PPE	Pilar Ayuso, Cristian-Silviu Buşoi, Jerzy Buzek, Pilar del Castillo Vera, Christian Ehler, Francesc Gambús, Françoise Grossetête, Krišjānis Kariņš, Seán Kelly, Werner Langen, Janusz Lewandowski, Nadine Morano, Angelika Niebler, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Theodor Dumitru Stolojan, Vladimir Urutchev, Henna Virkkunen, Hermann Winkler
S&D	Adam Gierek
VERTS/ALE	Reinhard Bütikofer, Jakop Dalunde, Rebecca Harms, Julia Reda, Claude Turmes

8	-
ALDE	Frederick Federley, Kaja Kallas, Angelika Mlinar, Morten Helveg Petersen
ECR	Ashley Fox, Hans-Olaf Henkel, Rupert Mathews
EFDD	Jonathan Bullock

19	0
GUE/NGL	Cornelia Ernst, Paloma López Bermejo, Neoklis Sylikiotis
S&D	Zigmantas Balčytis, José Blanco López, Theresa Griffin, Eva Kaili, Jeppe Kofod, Peter Kouroumbashev, Miapetra Kumpula-Natri, Edouard Martin, Csaba Molnár, Dan Nica, Miroslav Poche, Razvan Popa, Kathleen Van Brempt, Martina Werner, Flavio Zanonato, Carlos Zorrinho

Key to symbols:

+ : in favour
- : against
0 : abstention